

Legal Authorities Index

Introduction to Authorities List

By Dan Meador

The authorities list that follows is broken into several categories: The United States Constitution; the Statutes at Large; the United States Code; the Federal Register; the Code of Federal Regulations; The United States Government Manual, 1995/96 edition; court decisions; and miscellaneous. The list was originally compiled to support an application for writ of habeas corpus directly to the United States Supreme Court and other related initiatives. However, the authorities list is applicable in any legal forum and can be modified for whatever the need is.

Because we work extensively with Internal Revenue Service-related cases, the authorities list concentrates primarily on (1) IRS identity, (2) proper application of Internal Revenue Code taxing authority, and (3) the character and jurisdiction of United States statutory courts (Articles I & IV).

Probably our work in the framework of constitutional and common law is somewhat beyond that of most researchers at the moment so space will be dedicated to fundamental concepts of jurisdiction and basics of law which provide the underlying rationale for our objectives.

In order to understand where we are coming from, read and thoroughly understand the first 182 words of the Declaration of Independence. In this portion of the amazing document, American Founders prescribed what they believed constitute the basis of universal order. Until this order is understood, those dedicated to restoring American constitutional government will continue floundering as they don't have the common ground of understanding which provides the platform for moving ahead in legal and peaceful political forums.

Founders justified severance from British rule by "the laws of Nature and Nature's God."

This is the beginning-place: God is universal Lawgiver. As Creator, he established order in the framework of (1) physical law, and (2) moral law, the two great branches of what we know as common or natural law. Man cannot author or amend either -- both are "existing law." Physical law operates in the framework of cause and effect; moral law operates in the framework of cause and consequence.

Both operate individually. Little boys who jump from trees frequently suffer bruises and broken bones. Likewise, people who adopt the morality of alley cats are subject to social diseases, etc., families break down, and they and their heirs suffer spiritual, social and economic consequence.

Founders addressed this notion in the framework of "all men are created equal," and "all are endowed with certain unalienable rights." In other words, we individually can benefit from learning to harness and live in the framework of physical and moral law, or we each have the opportunity to suffer adverse effects and consequences. Therefore, there is a privileged relationship between the individual and God -- endowments from God of necessity have responsibilities which each must fulfill if we wish to enjoy the fruits of endowment.

Only after establishing universal order was the basis of government addressed: It is "established among

men," thereafter operates by "consent of the governed," and its primary purpose is to secure rights which God himself granted to each of us.

Liberty American founders fought to secure must be viewed in this context. Thus, the tenets of fundamental or common law: One cannot make moral choices for another, but the community has both the right and responsibility to correct, and punish, those who knowingly and intentionally make wrong choices which adversely affect the rights and security of others. In the Declaration of Independence, the three essential rights were described in the poetic as "life, liberty and pursuit of happiness," where in the Fifth Amendment to the Constitution, they are described as rights to "life, liberty and property."

This gives rise to the axiom that there is no such thing as victimless crime. From the beginning, people of the community extended common law to include offenses against public morals, etc., but the basis of fundamental law is premised on personal rights -- I cannot infringe on your rights without your permission, and you cannot infringe on mine.

The prime political unit in the American system was the State -- the Treaty of Paris recognized independence of the American people and the thirteen colonies, not the confederation of States. The Continental Congress was merely a representative body and the Articles of Confederation was a compact which addressed certain common interests. The Constitutional Convention, held in 1787, was attended by representatives of the newly independent States, and the product of the convention, the Constitution for the united States of America, created an agency known as the United States.

The intent was for United States Government to attend to certain matters where the several States had common interest, particularly with respect to foreign affairs, and to implement an amount of uniformity with respect to a common monetary system, postal service, and certain principles of government. The people retained sovereignty established in the Declaration of Independence, and both State and United States governments were put under the same edict for operating in the framework of specifically delegated powers.

Obviously, something is amiss. Both State and United States authorities routinely intrude on personal lives, and those who today serve in public office think nothing of implementing laws which address nearly every aspect of family and individual conduct.

This scheme is known as "cooperative federalism." Research suggests that the term was coined in the 1960s as social welfare programs became entrenched. However, even the social welfare program is premised on "commerce clause" federal authority. In the evolution of things, this move was known as "corporatism" in 1930s and possibly after. Today the Secretary of Transportation serves as "leading authority" and has discretionary power relating to federal grant-making authority which funds the several States and political instrumentalities. Federal grants are premised on "public money" which is for the most part manufactured under the notion of United States obligations -- Uncle Sam gives and loans his "credit" in order to effect loyalty adhesions. Rather than operating as semi-independent State republics party to the Constitutions, State public officials have garbed the States as though they are federal territories.

The history of this fraud dates to approximately the time of the Civil War, and is premised on three constitutional provisions: Article I §§ 8.17 & 8.18 grant Congress the power to secure certain lands for the United States, the specific grants being ten miles square for the Capitol, then property necessary for forts, magazines, arsenals, dockyards and other needful buildings. It is necessary for legislatures of States to cede jurisdiction over property acquired for these purposes. Once jurisdiction

is ceded, the United States has complete authority over the property once jurisdiction is formally accepted.

The final link is at Article IV § 3.2 -- Congress has unrestricted authority over territory belonging to the United States.

View this in the context of natural or common law: Natural or common law says, "God is Lawgiver." However, in the geographical United States subject to Congress' Article IV § 3.2 legislative jurisdiction, Congress decided "Congress is Lawgiver." In other words, Congress could pass a law saying, "If someone jumps up, he has committed an offense against the United States if he comes down." This is called "positive law." Positive law originates with man, in the context of what has been described as "legislative democracy," where "natural or common law" originates with God. God's law is indiscriminate; positive law is frequently implemented to support political ends. Read Thomas Jefferson's comments in the Kentucky Resolutions (1798) to see the effect of positive law.

The Fourteenth Amendment, promulgated in 1868 (was never properly ratified), is one of the key elements in the overall fraud. The Fourteenth Amendment created the "citizen of the United States subject to the jurisdiction thereof..." To that point, the American people were not "subject" to United States' authority save in the framework of eighteen or nineteen constitutionally delegated powers. The American people were principals -- the fountain of authority. But the Fourteenth Amendment citizen-subject, having colorable citizenship, could be subjected to United States discretionary rule.

In 1871, the District of Columbia was incorporated, with various revisions to corporate organization and powers being implemented thereafter -- two reorganizations in the 1870s, one as late as the 1970s.

One of the major moves came in 1884 via the Julliard case. The United States Supreme Court must have been under tremendous pressure, and maybe direct threats, as justices nearly reversed from an 1880 determination -- in Julliard, they ruled that the United States could print paper money because there is no specific constitutional prohibition.

Naval Academy founder George Bancroft addressed the matter at length -- constitutional intent is clear. Congress is authorized to mint coin and regulate value (Art. I § 8.5), and the several States are precluded from making any thing but gold and silver coin a tender for payment of debt (Art. I § 10.1). Further, the United States has delegated authority only to prosecuted counterfeiting United States securities and current coin (Art. I § 8.6). Nothing is said about paper money. Letters of various people such as George Washington, and the record of the Constitutional Convention, all support the conclusion that the United States was not to be granted power to issue paper money. In fact, one of the reasons the Constitutional Convention was called was to address chaos and frequent economic turmoil resulting from various States having issued credit currency then failing to live up to obligations. Bancroft also, albeit briefly, addressed the fraudulent notion that the United States under Congress' Article IV § 3.2 legislative jurisdiction has any purpose other than self-maintenance adequate to tend to delegated responsibilities.

Following conclusion of the Civil War, Congress indulged in an "empire binge" which is a shameful record. Failure to uphold treaties with Native American Indians, the conquest of Hawaii despite having treaties with native governments, United States retention of public lands in States admitted to the union following the Civil War -- the notion of Manifest Destiny was manufactured to cover a multitude of sins.

Two important events in 1913: Promulgation of the Sixteenth Amendment, and adoption of the

Federal Reserve Act.

The first rattle out of the box, the United States Supreme Court concluded that the Sixteenth Amendment did not confer any new taxing authority. It didn't repeal anything in the Constitution so far as direct taxes are concerned, and the term "income", appearing for the first time in the Constitution, was construed as applicable to profits such as returns from equities, interest, rents, etc. In 1985, Red Beckman and Bill Bentson demonstrated that the Amendment was never properly ratified.

Early on, two United States central banks were established, with both doing serious injury to the nation and the general population. In 1836, Andrew Jackson pretty well undermined future efforts when he vetoed renewal of the second bank charter -- the Constitution does not delegate authority for Congress to establish banks. However, with emergence of the self-interested United States where Congress allegedly has permissive rather than delegated authority, Congress can do pretty well as Congress pleases providing the Constitution doesn't articulate a specific prohibition. So Congress promulgated the Federal Reserve Act under Article IV § 3.2 legislative jurisdiction.

By consulting the Parallel Table of Rules and Authorities, it can be seen that the fraud even pre-dates the Federal Reserve Act. There are no implementing regulations published in the Federal Register which extend authority to the several States for the National Bank Act, the Federal Reserve Act, the Banking Act of 1933, or the Banking Act of 1935. The Federal Reserve [bank] note (see H.R. 1491 of March 9, 1933), is not legitimate currency in the several States -- federally chartered financial institutions, formed as associations, are authorized to do business only with United States agencies, governments of the federal States under Congress' Article IV § 3.2 legislative jurisdiction, and officers, agents, and employees thereof -- whoever is entitled to possession and use of "public money." (see particularly, 31 CFR §§ 202-209)

Congress for all practical purposes ceased functioning under Article I delegated responsibilities and has moved the whole of Federal government under Article IV § 3.2 permissive authority. State officials accommodated by operating in de facto Federal rather than de jure State capacities.

The compressed history above brings us to the current station: We have mathematically impossible credit and monetary schemes which mandate an eventual economic crash that will be far more serious than the 1930s great depression; Government is strapped enough for funds that enforcement and judicial agencies are on a rampage (we incarcerate more people both in total numbers and on a per-capita basis than any other nation in the world, the old Soviet Union and South Africa included); we now have homeless and working poor populations which were absent from America from the 1930s until the mid-eighties; and we are at the brink of a literal revolution. Rural mainstreet has taken on the aura of a ghost town; inner-city ghettos have sprung up in every metropolitan area; the nation's moral fabric is being ripped apart, with underlying causes being largely economic forces which operate quietly against a vast majority of the American people -- from 1973 to 1990, the American middle and upper middle classes dwindled from 55% to about 35% of the population while low income and poor classes went from 35% to over 50%. Institutional pressure which mandates money is the fuel which causes further cannibalization of those already victimized. Something has to give.

As we turn to the general subject of law, the situation must be viewed in two distinct forums: Individual remedies and general remedies. Individual remedies are of two kinds: (1) successfully defend against aggression under color of law; or (2) secure judgments to recover compensation for loss and damage. General remedies are also of two kinds: (1) political correction through State and United States legislative bodies, and (2) criminal prosecution of those who operate under color of law.

In order to spare America the fate of nineteen of twenty-one known empires -- destruction from within -- we must target general remedies.

Reform of legislative bodies is a political matter which must be accomplished via general education and the public forum. However, there are a number of strategies which can assist in the change process other than simply standing on political stumps.

One is to attack public coffers -- in Oklahoma, we've unraveled the State income tax system, and have given notice that we will shortly take out other State taxes premised on a Federal grant of authority. I've been told that a legislative committee has recently been appointed to study how to change over from the Federal to a legitimate State tax system within two years. Where Federal government can manufacture "United States credit," State and local government can't -- successfully aborting five to ten percent of State revenue puts a terrible hurt on the State's ability to maintain services.

A cute story gets the point across: An elderly grandmother type used to sit in her own rocking chair near the front of the church. The preacher judged how well his sermon was going by the speed to Grandma's rocker. The faster she rocked, the better the sermon. But one Sunday he got off on bedroom conduct and Grandma's rocker came to a stop. When he asked what was wrong, she told him, "Now you've quit preaching and gone to meddling."

Sex and money are personal. Talking about change is one thing; politicians will agree to your face then do as they please, but when you gain control of the purse strings, you're the boss. Suddenly one of them says, "Maybe we didn't understand what you were saying before. Would you like to say it again?"

While I don't want to detract from initiatives against public officials who operate under color of law via civil actions, I lean toward criminal prosecution as the more general remedy as history demonstrates that civil actions alone are inadequate to stop tyranny. This is particularly the case where judicial systems are under control of entrenched powers responsible for tyranny. Unfortunately, law isn't a virtuous game, as attested by historical figures from Socrates to Cicero, Jesus and William Shakespeare. The legal profession is mercenary in nature -- so long as there is money on the table, there will be people willing to sell their souls lined up at the jackpot window. As John Kennedy said, "When money and principle clash, money nearly always wins."

Lust for money and power is insatiable, and the legal profession attracts more than a fair ration of moral reprobates. History tells us that judicial ranks and the legal profession occasionally have to be purged in order to restore cultural sanity.

In 1215, English barons subdued King John by way of armed rebellion. One of the key provisions in the Magna Charta was restoration of common law, taking both civil and criminal powers away from the king's admiralty courts. In 1640, the popular uprising was a result of convoluted ecclesiastical and Star-Chamber courts under Charles I -- the head of Charles' ecclesiastical courts was dispatched to the Tower for the balance of his life, and the chief mogul over the Star-Chamber courts was summarily beheaded. Judges and attorneys fled England by the drove. The American revolution was fought largely because of vice-admiralty courts under George III.

Following World War II, we addressed essentially the same problem via the Nuremberg trials: German judges who presided under provisions of Nazi law after 1935 were criminally prosecuted, not because they exceeded the law, but because they imposed inhumane, unconscionable law.

Courtroom decorum, including ritual and lush trappings, is calculated to effect ritual magic -- what transpires in courts of the States and the United States has the appearance of justice in the process, but both State and United States judicial systems operate under maritime authority which merely has the appearance of due process as contemplated by the Article III § 2.1 "arising under" clause and the Fourth, Fifth, Sixth, and Seventh Amendments to the United States Constitution. There is nothing just about what transpires in today's courts -- they are set up to accommodate institutionalized tyranny, nothing more. Justice, when it is served, is incidental to the true purpose of the courts.

Our strategy is premised largely on historical evidence: In all nations at all times, particularly in America, tyranny never stands on one leg. There are perpetrators by intent, but they go nowhere unless there are perpetrators by consent -- accommodation of the absurd. State and United States judicial officers are key to resolving today's multitude of woes -- so long as they insist on operating in the statutory framework, where they impose legislative edict, rather than preserving judicial courts under common law and as the third independent branch of government, they accommodate and further the cause of tyranny.

Here is an essential concept: All of today's State and United States statutory courts operate in "derogation" of common law. Consequently, all have limited jurisdiction. They impose "non-constitutional" law. Judicial officers are not judges in the true sense of the word, but all operate as magistrates -- they are officers of legislative or statutory rather than judicial courts. They operate in ministerial, or what might be better recognized as administrative capacities. In a sense, they contribute to dismantling American solvency and sovereignty in the same way Carpet Baggers ravaged the South following the Civil War.

However, both State codes and the United States Code preserve fundamental law. The key mechanisms are judicial notice, basic fact, and presumed fact. Under rules of evidence, when a party requests judicial notice and provides information necessary to establish fundamental law, the judicial officer must take judicial notice. Under Conflict of Law Doctrine, the magistrate judge must in all cases preserve constitutional and common law when there is conflict with statutory "non-constitutional" law. Averments premised on legal authorities must be judicially noticed, and the adversarial party must respond to each, point-by-point, with legal authorities adequate to overcome the original allegation entered into evidence.

The mandate for judicial notice is at Rule 201(c) of the Federal Rules of Evidence. Each State code has a comparable provision.

Under Conflict of Law Doctrine, judicial officers of the United States and the several States must recognize applicable constitutions, and the constitutions must in all cases prevail when in conflict with statutory law, regulations or whatever else.

The United States Code is prima facie evidence of the law and must be judicially noticed (1 USC § 204(a)); the Federal Register is prima facie evidence of original documents, and the Code of Federal Regulations must be judicially noticed (44 USC §§ 1507 & 1510). Therefore, by premising pleadings on the Constitution, the Statutes at Large, the United States Code, the Federal Register, the Code of Federal Regulations, court decisions, etc., the judicial officer is bound by rules of the court to take judicial notice and the adversarial party is forced to respond to each allegation which is based on official authorities. When and if the judicial officer fails to comply with these rules, he has quite literally committed a crime, and in the event that he has assumed unproven jurisdiction, he has shed the cloak of judicial immunity.

Several resources are available. One is to appeal an adverse ruling which doesn't take judicial notice. However, this option is "forgiving," and merely asks another court to correct the error. The more effective remedy is to file a judicial complaint with the circuit court of appeals under authority of 28 USC § 372(c), which should stay an action and force recusal of the culprit judge, and file complaints to support a special grand jury investigation of government corruption (18 USC §§ 3331-3334). Then file criminal complaints with proper State authorities for prosecution pending the grand jury report.

Why file criminal complaints with the State when United States judicial officers are involved?

Here is where the initial discussion of fundamental law is applied: Each of us is accountable to the law of the land. That is, legislative jurisdiction is in all cases territorial. When someone who is or poses as a United States official operates beyond legitimate authority, he is "out-law" -- he is operating under color of law.

An example will serve: Suppose three or four soldiers stationed at Ft. Sill robbed a bank in Lawton, Oklahoma. On the federal reservation, they are subject to laws of the United States. However, in Lawton, they are accountable to law which governs in the State. The United States judicial officer is subject to the same principle: When and if he exceeds United States jurisdiction and authority, he is subject to the law of the land.

Several legal authorities support this conclusion: First, Article III § 2.3 of the Constitution specifies that the trial of crimes will be in the State where alleged offenses arise. Second, Congress is granted authority to prescribe punishment only for counterfeiting United States securities and current coin (Article I § 8.6). Third, United States statutory courts operate (1) in maritime capacity (second class of cases under Article III § 2.1, apart from "arising under" authority "in law and in equity"); (2) as United States territorial courts under Congress' Article IV § 3.2 legislative jurisdiction (not Article III courts, impose positive or civil law); and (3) as United States Government administrative law courts. Within the several States, and in the framework of common or fundamental law contemplated by the "arising under" clause at Article III § 2.1 and the Fifth Amendment, United States District Courts are incompetent at law.

By reviewing title 18 of the United States Code, it is clear that the United States does not have judicial authority in the several States except on federal enclaves, as prescribed at Article I § 8.17. United States "special maritime and territorial jurisdiction" is prescribed at 18 USC § 7, with jurisdiction in the several States at § 7(3), and the second paragraph at § 3231, the venue statute, clearly preserves the law and judicial authority of the several States. Therefore, the federal officer or employee who operates under color of law, exceeding Congress' legitimate grant of authority in the several States, is subject to prosecution in the framework of the "law of the land" -- common law indigenous to each of the several States save Louisiana (French Civil Law).

Envision walking from a shoreline into water. When leaving land to enter water, there is a change in "venue" and rules concerning motion and comportment change (jurisdiction).

Theoretically, it shouldn't make any difference if the State or United States presides over the trial of crimes as the English-American common law, as modified by applicable constitutions, should be the law of the land throughout the nation. Under rules of the common law, the jury would be in control of law and fact. But in 1938 (Erie Railroad vs. Thompkins), the United States Supreme Court yielded to Roosevelt New Deal pressure and proclaimed that there is no national or general common law -- the self-interested United States now operates exclusively under positive law.

One of the key statutes which has recently surfaced is 40 USC § 255. This statute prescribes precisely what has to happen for the United States to establish jurisdiction: (1) the United States must acquire title to property; (2) the State legislature must cede jurisdiction; and (3) the United States must formally accept jurisdiction. It is my opinion that even where these three elements are in place, jurisdiction can be challenged if it has been secured for any purpose other than those prescribed at Article I § 8.17. The Tenth Amendment, which implements the Separation of Powers Doctrine, stipulates that the United States may exercise powers delegated by the Constitution, and nothing more, and as it works on the other side (New York vs. United States, et al (1992)), State officials cannot accommodate exercise of federal power which is not delegated without first securing a constitutional amendment.

There is one legitimate exception: Prior to admission of numerous States following the Civil War, certain lands were put in trust for Native American Indian tribes and individuals under treaty provisions. Indian tribal governments have original jurisdiction over these lands under supervision of the Bureau of Indian Affairs, which in turn is under supervision of the Department of the Interior. Since reservation of these lands was made by treaty, the provision has constitutional legitimacy even though overall governance is convoluted by presumed Article IV § 3.2 coloration.

Now, let's touch briefly on civil remedies: While I laud those making headway with title 42 suits and the like, the jurisdiction issue is as important here as in the criminal forum. The only time a district court of the United States, as opposed to a United States District Court, has legitimate jurisdiction in any of the several States is under diversity of citizenship, the governing statute being 28 USC § 1652. Otherwise, civil actions, in the framework of common law, should initiate from judicial courts of the State.

Study of Oklahoma and Kansas statutes suggests that State supreme courts are the only true judicial courts in the several States. Therefore, where all parties have abode and maintain Citizenship in a single State, an "original action at law" should be filed with the State supreme Court.

Presently we're working on a case where the moving party in United States District Court is a Department of Justice Tax Division attorney with offices in Washington, D.C. Obviously, she doesn't live in Oklahoma. There is diversity of citizenship. So to join her in an original action at law, via the district court for the United States, Western District of Oklahoma, the original action would be filed under common law indigenous to Oklahoma, but in the district court of the United States under 28 USC § 1652. The attorney is "invading" Oklahoma for clandestine purpose -- she is abridging fundamental Oklahoma law, but must be joined via an Article III court of the United States.

Another constitutional provision most researchers seem to have overlooked is the Article IV § 4 provision that the United States may exercise military or "police power" in the several States under only two conditions: (1) in the event of invasion, or (2) on invitation of the State legislature or chief executive in the event of civil uprising. United States Government has precious little legitimate police power in the several States. When going through the index of authorities that follows, it will be discovered that the law complies with constitutional intent -- authority of various federal investigation and enforcement agencies is addressed.

Hopefully this introduction helps to make sense of the lengthy index of authorities that follows. Yes, the Internal Revenue Service is an agency of the Department of the Treasury, Puerto Rico, along with the Bureau of Alcohol, Tobacco and Firearms and Customs, and yes, proper application of subtitles A & C of the Internal Revenue Code has been straightened out -- unless you're a government paymaster,

you aren't the person "made liable," and the 1040 return form is a voluntary instrument filed to collect over-payment of Social Security tax if you happened to work for two or more employers effectively connected with United States Government. Under 50 pages of material unravels that mess -- Vol. 68A of the Statutes at Large (1954), sections 3401-3404; 26 CFR § 31.0; and 26 CFR § 601.401. Nearly all IRS initiatives, whether civil or criminal, are premised on Customs/Coast Guard authority, with the presumption being that ordinary people are illegal drug dealers out of Puerto Rico, the Cayman Islands, etc. See 33 CFR § 1 for Coast Guard maritime civil procedure and criminal prosecution authority.

Hard copy reproduction of cites in the authority index will soon be available.

Ponca City, Oklahoma -- October 10, 1996

Index of Authorities

United States Constitution

1. United States Constitution, Article I § 8.6: "[The Congress shall have Power] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States..."
2. United States Constitution, Article I § 8.17: "[The Congress shall have Power] To exercise exclusive Legislation in all Cases whatsoever, over ... all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings..."
3. United States Constitution, Article I § 9.2: "The privilege of the Writ of Habeas Corpus shall not be suspended, unless in Cases of Rebellion or Invasion the public Safety may require it."
4. United States Constitution, Article I § 9.3: "No Bill of Attainder or ex post facto Law shall be passed."
5. United States Constitution, Article III § 2.1: "The judicial Power [of the United States] shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority..."
6. United States Constitution, Article III § 2.3: "The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed..."
7. United States Constitution, Article IV § 3.2: "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States..."
8. United States Constitution, Article IV § 4: "The United States shall ... protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."
9. United States Constitution, Amendment IV (1791): "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,

and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation..."

10. United States Constitution, Amendment V (1791): "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; ... nor be deprived of life, liberty, or property, without due process of law..."

11. United States Constitution, Amendment IV (1791): "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process of obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

12. United States Constitution, Amendment IX (1791): "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

13. United States Constitution, Amendment X (1791): "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Statutes at Large

14. Volume 68A, Statutes At Large (1954), as amended in 1986 and since, is the Internal Revenue Code (title 26, United States Code, has not been enacted as positive law in accordance with provisions at 1 USC § 204(a), as specified at 26 USC § 7806(b)).

15. Chapter 24, Vol. 68A, Statutes at Large, addresses particulars for "Collection of Income Tax at Source on Wages" (page 455).

16. The "employee" subject to said deduction is defined at § 3401(c) of the Internal Revenue Code:

(c) EMPLOYEE. -- For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

17. The "employer" required to make payroll deductions under Chapter 24 of the Internal Revenue Code is defined at § 3401(d):

(d) EMPLOYER. -- For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that --

(1) if the person for whom the individual performs or performed the service does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a)) means the person having control of the payment of such wages, and

(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States,

the term "employer" (except for purposes of subsection (a)) means such person.

18. The "employer" rather than the "employee" is liable for reporting and paying income and related subtitle A & C taxes withheld at the source, as demonstrated by §§ 3403 & 3404 of the Internal Revenue Code:

Sec. 3403. LIABILITY FOR TAX.

The employer shall be liable for the payment of the tax required to be deducted and withheld under this chapter, and shall not be liable to any person for the amount of any such payment.

Sec. 3404. RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER.

If the employer is the United States, or a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, Territory, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or approximately designated for that purpose.

United States Code

19. Title 1, United States Code Service, section 204(a):

(a) United States Code. The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

20. Title 5, United States Code Service, section 301, pertaining to departmental regulations: "The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property..."

21. Title 14, United States Code, section 1:

Sec. 1. Establishment of Coast Guard

The Coast Guard as established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times. The Coast Guard shall be a service in the Department of Transportation, except when operating as a service in the Navy.

22. Title 14, United States Code, section 2:

§ 2. Primary duties

The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department; shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice breaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall, pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States; shall engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities.

23. Title 14, United States Code, section 89:

Sec. 89. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful or appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers and the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

(1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and

(2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

24. Section 141, Title 14 of the United States Code:

Sec. 141. General

(a) The Coast Guard may, when so requested by proper authority, utilize its personnel and facilities to assist any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia, to perform any activity for which such personnel and facilities are especially qualified.

(b) The Coast Guard, with the consent of the head of the agency concerned, may avail itself of such officers and employees, advice, information, and facilities of any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia as may be helpful in the performance of duties...

25. Section 143, title 14 of the United States Code:

Sec. 143. Treasury Department

Commissioned, warrant, and petty officers of the Coast Guard are deemed to be officers of the customs and when so acting shall, insofar as performance of the duties relating to customs laws are concerned, be subject to regulations issued by the Secretary of the Treasury governing officers of the customs.

26. Section 632, Title 14 of the United States Code:

Sec. 632. Functions and powers vested in the Commandant

All powers and functions conferred upon the Coast Guard, or the Commandant, by or pursuant to this title or any other law shall, unless otherwise specifically stated, be executed by the Commandant subject to the general supervision of the Secretary. In order to execute the powers and functions vested in him, the Commandant may assign personnel of the Coast Guard to duty in the District of Columbia, elsewhere in the United States, in any territory of the United States, and in any foreign country...

27. Title 18, United States Code Service, section 7, prescribing "special maritime and territorial jurisdiction of the United States" in the several States: "The term 'special maritime and territorial jurisdiction of the United States', as used in this title [18 USCS § 1 et seq.], includes: (3) ... any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building." [reservation of Indian tribal lands held in trust, and tribal affairs under supervision of the Bureau of Indian Affairs via the Department of Interior conceded as an exception]

28. Title 18, United States Code Service, section 3231, second paragraph: "Nothing in this title [18 USC §§ 1 et seq.] shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof."

29. Title 18, United States Code, section 23, defining, "court of the United States": "As used in this title [18 USC § 1 et seq.], except where otherwise expressly provided the term 'court of the United States' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and

the District Court of the Virgin Islands."

30. Sections 7, 23 and 3231 of title 18, United States Code, are not listed in the Parallel Table of Authorities and Rules, so have no implementing regulations applicable to the several States and the population at large. Where Article III courts of the United States are concerned, this is not necessary in the framework of the Article III § 2.1 "arising under" clause, but the Article I admiralty and maritime court [district courts of the United States] does not fall within the "arising under" class of case, authority applying only to matters on the high seas and international affairs, where the Article IV § 3.2 territorial United States District Court, as a statutory court, would need regulations before extending authority to the several States. This is also true of United States "special" courts such as the Tax Court and Bankruptcy Court.

31. Federal Rules of Criminal Procedure, Rule 44, Notes of Advisory Committee on Rules:

1. This rule is a restatement of existing law in regard to the defendant's constitutional right of counsel as defined in recent judicial decisions. The Sixth Amendment provides:

"In all criminal prosecutions, the accused shall enjoy the right *** to have the Assistance of Counsel for his defense."

28 U.S.C. former § 394 (now § 1654) provides:

"In all the courts of the United States the parties may plead and manage their own causes personally, or by the assistance of such counsel or attorneys at law as, by the rules of the said courts, respectively, are permitted to manage and conduct causes therein."

18 U.S. C. former § 563 (now § 3005), which is derived from the act of April 30, 1790 (1 Stat. 118), provides:

"Every person who is indicted of treason or other capital crime, shall be allowed to make his full defense by counsel learned in the law; and the court before which he is tried or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, and they shall have free access to him at all seasonable hours."

These statutes were verified in the 1946 edition of the United States Code.

32. Federal Rules of Criminal Procedure, Rule 54(c), application of terms, and attending advisory committee notes:

"Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.

"Magistrate" includes a United States magistrate as defined at 28 USC §§ 631-639, a judge of the United States or another judge or judicial officer, specifically empowered by statute in force in any territory or possession, the Commonwealth of Puerto Rico, or the District of Columbia, to perform a function to which a particular rule relates.

"Judge of the United States" includes a judge of a district court, court of appeals, or the Supreme Court.

"Magistrate" includes a United States magistrate as defined in 28 USC §§ 631-639, a judge of the United States, another judge or judicial officer specifically empowered by statute in force in any territory or possession, the Commonwealth of Puerto Rico, or the District of Columbia, to perform a function to which a particular rule relates, and a state or local judicial officer, authorized by 18 USC § 3041 to perform the functions prescribed in Rules 3, 4 and 5.

"State" includes District of Columbia, Puerto Rico, territory and insular possession."

Additionally, "Notes of Advisory Committee on Rules" relating to Subdivision (a)(1), (a)(2), (b)(1), & (b)(4) are relevant to the matter of jurisdiction, authority of commissioners/magistrates, etc. Also, see comparable provisions in Rule 81, Federal Rules of Civil Procedure, not included in this index of authorities.

33. Where the Secretary determines there is liability under a taxing statute, he must notify those liable by direct notice, or by general application regulations published in the Federal Register, per title 26, United States Code, section 6001:

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

34. Title 26 of the United States Code specifies property subject to forfeiture by levy are specified at section 7301, as follows: (a) taxable articles themselves (distilled spirits, etc., subject to subtitle E excise tax); (b) raw materials used in manufacture; (c) equipment used in manufacture; (d) packaging; and (e) transportation equipment.

35. Title 26, United States Code, section 7302, specifies forfeiture for violation of [subtitle E] revenue laws:

It shall be unlawful to have or possess any property intended for use in violating the provisions of the internal revenue laws, or regulations prescribed under such laws, or which has been so used, and no property rights shall exist in any such property. A search warrant may issue as provided in chapter 205 of title 18 of the United States Code and the Federal Rules of Criminal Procedure for the seizure of such property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal revenue laws, or of any other law. The seizure and forfeiture of any property under the provisions of this section and the disposition of such property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal revenue laws.

36. Title 26, United States Code, Chapter 75, which addresses, "Crimes, Other Offenses, and Forfeitures", clearly applies solely to subtitle E taxes under BATF administration, and demonstrated

by specific items subject to forfeiture under § 7301, and counterfeit stamps and false stamping of packages subject to forfeiture under provisions of § 7303.

37. Particulars with respect to the Secretary providing notice, with subsequent requirements for those who have not withheld, reported and paid income and related tax in accordance with subtitle C requirements, is specified by statute at section 7512 of title 26, United States Code, and by regulation at section 301.7512-1 of title 26, Code of Federal Regulations:

26 USC § 7512

Sec. 7512. SEPARATE ACCOUNTING FOR CERTAIN COLLECTED TAXES, ETC.

(a) GENERAL RULE. -- Whenever any person who is required to collect, account for, and pay over any tax imposed by subtitle C, or chapter 33 --

(1) at the time and in the manner prescribed by law or regulations (A) fails to collect, truthfully account for, or pay over such tax, or (B) fails to make deposits, payments, or returns of such tax, and

(2) is notified, by notice delivered in hand to such person, of any such failure,

then all the requirements of subsection (b) shall be complied with. In the case of a corporation, partnership, or trust, notice delivered in hand to an officer, partner, or trustee, shall for purposes of this section, be deemed to be notice delivered in hand to such corporation, partnership, or trust and to all officers, partners, trustees, and employees thereof.

(b) REQUIREMENTS. -- Any person who is required to collect, account for, and pay over any tax imposed by subtitle C, or chapter 33, if notice has been delivered to such person in accordance with subsection (a), shall collect the taxes imposed by subtitle C, or chapter 33 which become collectible after delivery of such notice, shall (not later than the end of the second banking day after any amount of such taxes is collected) deposit such amount in a separate account in a bank (as defined in section 581), and shall keep the amount of such taxes in such account until payment over to the United States. Any such amount shall be designed as a special fund in trust for the United States, payable in the United States by such person as trustee.

38. Internal Revenue Code general application definitions for "State" and "United States", approximated if not precise in title 26 of the United States Code, apply only to territories under Congress' Article IV legislative jurisdiction, as found at 26 USC § 7701(a):

(9) UNITED STATES. -- The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) STATE. -- The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

39. Title 26, United States Code, section 7804(b) [edited for clarity]:

(b) PRESERVATION OF EXISTING RIGHTS AND REMEDIES. -- Nothing in [the Internal Revenue Code [Vol. 68A, Statutes at Large (1954), as amended in 1986 and since]] [***] shall be considered to impair any right [including trial by jury], or remedy, [***] to recover any

internal revenue tax alleged to have been erroneously or illegally assessed or collected ... The venue of any such action shall be the same as under existing law.

40. Title 26, United States Code, section 7805(a):

(a) AUTHORIZATION. -- Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

41. Title 26, United States Code, section 7806(b):

(b) ARRANGEMENT AND CLASSIFICATION. -- No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect. The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law.

42. Title 26, United States Code, section 7851(a)(6)(A):

(A) GENERAL RULE. -- The provisions of subtitle F shall take effect on the day after the date of enactment of this title and shall be applicable with respect to any tax imposed by this title...

43. Primary statutory authority for the Federal Bureau of Investigation is in title 28, United States Code, sections 531-537. None of these statutes appear in the Parallel Table of Authorities and Rules, which means no regulations extending FBI authority to the several States has been published in the Federal Register, as required at 44 USC § 1505(a). However, the FBI fraud goes deeper than that presented on the surface: According to 28 USCS § 531 historical notes and ancillary laws and directives, "The Bureau of Investigation in the Department of Justice, the earliest predecessor agency of the Federal Bureau of Investigation, was created administratively in 1908 ... The Division of Investigation was first designated as the 'Federal Bureau of Investigation' by the Act of March 22, 1935, c. 39, title II, 49 Stat. 77, and has been so designated in statutes since that date.

In interpretive notes and decisions, the USCS cites Jones v. Federal Bureau of Investigation (1956, DC Md) 139 F. Supp. 38: "If claim based on alleged tortious conduct of FBI agents were considered to be claim against FBI, rather than against United States, it would have to be dismissed, since Congress has not constituted FBI a body corporate nor authorized it to sue or be sued."

This matter has been previously addressed relative to the Bureau of Internal Revenue: If a department or agency is not created either by the United States Constitution or by Congress, it has no legitimate or independent authority (United States vs. Germane, 99 U.S. 508 (1879); Norton vs. Shelby County, 118 U.S. 425, 441, 6 S.Ct. 1121 (1866); Pope vs. Commissioner, 138 F.2d 1006, 1009 (6th Circuit, 1943); State vs. Pinckney, 276 N.W. 2d 433, 436 (Iowa, 1979). The executive branch of United States Government does not have legislative power so far as the several States and the population at large are concerned. The conclusion that the FBI doesn't have ranging authority in the several States is verified by the general authority statute at 28 USCS § 535 [1980 edition, USCS]:

§ 535. Investigation of crimes involving Government officers and employees; limitations

(a) The Attorney General and the Federal Bureau of Investigation may investigate any violation of title 18 involving Government officers and employees --

(1) notwithstanding any other provision of law; and

(2) without limiting the authority to investigate any matter which is conferred on them or on a department or agency of the Government.

(b) Any information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless --

(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

(c) This section does not limit --

(1) the authority of the military departments to investigate persons or offenses over which the armed forces have jurisdiction under the Uniform Code of Military Justice (chapter 47 of title 10) [10 USCS §§ 801-940]; or

(2) the primary authority of the Postmaster General to investigate postal offenses.

FBI powers in the framework of the Federal Code of Criminal Procedure, which must be construed as being limited by the general authority statute at 28 USCS § 535, is located at section 3052 of the title 18, United States Code, and again, this statute does not appear in the Parallel Table of Authorities and Rules so does not have general application to the several States and the population at large [United States Code, 1995 Government Printing Office edition, CD-ROM]:

§ 3052. Powers of Federal Bureau of Investigation

The Director, Associate Director, Assistant to the Director, Assistant Directors, inspectors, and agents of the Federal Bureau of Investigation of the Department of Justice may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

As is the case for Department of the Treasury, Puerto Rico, and other United States Government agencies, there are an assortment of delegations which grant the FBI broader authority in the geographical United States under Congress' Article IV § 3.2 legislative jurisdiction, and so far United States maritime affairs are concerned, but as demonstrated by the lack of regulations published in the Federal Register for FBI statutory authority, the Bureau's authority does not reach the several States and the population at large (see delegations under 28 CFR, Part 0).

44. The office of the United States Attorney is created, and authority prescribed at, title 28 of the United States Code, Chapter 35, statutes being section 541-550. By referencing the Parallel Table of Authorities and Rules, it is found that there are no regulations Published in the Federal Register for 28 USC § 541, which authorizes the President, with advice and consent of the Senate, to appoint a United States Attorney for each United States judicial district. The regulations which are cited for 28 USC § 543, pertaining to special attorneys (Special Counsel), are 28 CFR §§ 600 & 603, and 32 CFR § 516. The 28 CFR §§ 600 & 603 regulations prescribe general powers of Independent Counsel, and jurisdiction of Independent Counsel relating to Madison Guaranty Savings & Loan. Title 32 of the Code of Federal Regulations relates to the Department of Defense, and Part 516 relates to litigation in aid of civil authorities relating to the Department of the Army.

The regulation published in the Federal Register for 28 USC § 547, which prescribes duties for the United States Attorney, is 28 CFR § 77 -- authority to communicate with represented persons. In other words, there are no general application regulations published in the Federal Register which extends United States Attorney authority to the several States and the population at large for any of the statutes which prescribe United States Attorney authority.

45. Authority for United States Marshals is located at Chapter 37 of title 28, United States Code, statutory authority being 561-576. None of these statutes are listed in the Parallel Table of Authorities & Rules [Index Volume to Code of Federal Regulations, authorized by 1 CFR § 8.5]. Consequently, the U.S. Marshal does not have authority in the several States as pertains to the population at large.

46. As demonstrated in historical and amendment notes to the Federal Magistrate Judge Act, at title 28 of the United States Code, sections 631-639, federal magistrate judges were originally national park commissioners. While the name has changed via various amendments, jurisdiction and authority of the federal magistrate judge/national park commissioner hasn't changed. [see case cites for jurisdiction]

47. Section 1652, title 28 of the United States Code -- district courts of the United States, not District Courts of the United States, under provisions of Article III § 2.1 of the Constitution (in law and in equity), have jurisdiction over civil actions involving diversity of citizenship. With Erie Railroad vs. Tompkins (1938), the United States Supreme Court effectively declared that there is no national or general common law, and that in diversity actions, the law indigenous to the locale where the controversy arises governs the case. This assures substantial due process in accordance with fundamental law (natural or common law) indigenous to any of the several States. 28 USC § 1652 is as follows:

§ 1652. State laws as rules of decision

The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply.

(June 25, 1984, ch. 646, 62 Stat. 944)

Historical Revision Notes

Based on title 28, U.S.C. 1940 ed., § 725 (R.S. § 721).

"Civil actions" was substituted for "trials at common law" to clarify the meaning of the Rules of Decision Act in the light of the Federal Rules of Civil Procedure. Such Act has been held to apply to suits in equity.

Changes made in phraseology.

48. Regular and special grand juries convened under Federal authority have no authority with respect to the several States party to the United States Constitution or the population at large. This item is demonstrated by a separate memorandum styled, "Federal Grand Jury Statutory Authority & Delegations". See general authority at 28 USC §§ 1861-1869; general criminal authority at 18 USC §§ 3321-3322; special grand jury authority, with civil powers to investigate Government corruption only, at 18 USC §§ 3331-3334.

49. Sec. 391, title 33 of the United States Code:

Sec. 391. Summary trials authorized

Whenever a complaint shall be made against any master, officer, or seaman of any vessel belonging, in whole or in part, to any citizen of the United States, of the commission of any offense, not capital or otherwise infamous, against any law of the United States made for the protection of persons or property engaged in commerce or navigation, it shall be the duty of the United States attorney to investigate the same, and the general nature thereof, and if, in his opinion, the case is such as should be summarily tried, he shall report the same to the district judge, and the judge shall forthwith, or as soon as the ordinary business of the court will permit, proceed to try the cause, and for that purpose may, if necessary, hold a special session of the court, either in term time or vacation.

50. Sec. 392, Title 33 of the United States Code:

Sec. 392. Complaint and answer; jury trial

At the summary trial of offenses against the laws for the protection of persons or property engaged in commerce or navigation, it shall not be necessary that the accused shall have been previously indicted, but a statement of complaint, verified by oath in writing, shall be presented to the court, setting out the offense in such manner as clearly to apprise the accused of the character of the offense complained of, and to enable him to answer the complaint. The complaint or statement shall be read to the accused, who may plead to or answer the same, or make a counterstatement. The trial shall thereupon be proceeded with in a summary manner, and the case shall be decided by the court, unless, at the time for pleading or answering, the accused shall demand a jury, in which case the trial shall be upon the complaint and plea of not guilty.

51. Title 40, United States Code, section 255 in relative part (last paragraph):

§ 255. Title to land to be purchased by United States; acquisition by United States of jurisdiction over lands

Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall

not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.

52. Title 42, United States Code, section 10502:

Sec. 10502. Definitions

For purposes of this chapter -

(1) the term "Federal law enforcement assistance" means funds, equipment, training, intelligence information, and personnel,

(2) the term "Federal law enforcement community" means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administration,

(C) the Criminal Division of the Department of Justice,

(C) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws.

(3) the term "law enforcement emergency" means an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which State and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law, except that such term does not include -

(A) the perceived need for planning or other activities related to crowd control for general public safety projects, or

(B) a situation requiring the enforcement of laws associated with scheduled public events, including political conventions and sports events, and

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands. [emphasis added]

53. Title 44, United States Code Service, section 1505, concerning documents to be published in the Federal Register [Federal Register Act]: "(a) Proclamations and Executive Orders; documents having general applicability and legal effect; documents required to be published by Congress. There shall be published in the Federal Register -- (1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof..."

54. The "United States of America", as a covenant alliance of federal States under Congress' Article IV § 3.2 legislative jurisdiction and United Nations original administration, under mutual assistance agreements and the like, is also the moving party in these areas, as demonstrated by title 48, United States Code, sections 874 & 1406f. The authority is under the President as Commander and Chief of the military, with the Coast Guard being the military department responsible for enforcement, as will be demonstrated via 31 CFR § 1:

Title 48, United States Code

§ 874. Judicial process; officials to be citizens of United States; oaths

All judicial process shall run in the name of "United States of America, ss, the President of the United States", and all penal or criminal prosecution in the local courts shall be conducted in the name and by the authority of "The People of Porto Rico [Puerto Rico]", and all officials shall be citizens of the United States, and, before entering upon the duties of their respective offices, shall take an oath to support the Constitution of the United States and the laws of Porto Rico [Puerto Rico].

§ 1406f. Judicial process; title of criminal prosecutions

All judicial process shall run in the name of "United States of America, scilicet, the President of the United States", and all penal and criminal prosecutions in the local courts shall be conducted in the name and by the authority of "the People of the Virgin Islands of the United States".

There is no comparable statutory authority for the "United States of America", a/k/a UNITED STATES OF AMERICA, to be the moving party in the several States as relates to the American people at large.

55. Complete territorial jurisdiction of United States District Courts in territories under Congress' Article IV § 3.2 legislative jurisdiction is accomplished under authority of the Department of the Interior, thus jurisdiction in federal States by federal magistrate judges/national park commissioners, as demonstrated in the enabling act for the Virgin Islands at title 48 of the United States Code, section 1599:

§ 1599. Transfer of functions from government comptroller for Virgin Islands to Inspector General, Department of the Interior.

(a) Functions, powers, and duties transferred.

(b) Scope of authority transferred.

(c) Transfer of personnel, assets, etc., of office of government comptroller for Virgin Islands to Office of Inspector General, Department of the Interior.

Code of Federal Regulations

56. Title 1, Code of Federal Regulations, Part 8, Subchapter C -- Special editions of the Federal Register, § 8.5 Ancillaries: (a) *Parallel tables of statutory authorities and rules*. In the Code of Federal Regulations Index ... numerical lists of all sections of the current edition of the United States Code (except section 301 of title 5) which are cited by issuing agencies as rule-making authority for currently effective regulations in the Code of Federal Regulations..."

57. Title 1, Code of Federal Regulations, Part 21, Subpart B -- Citations of Authority:

§ 21.40 General requirements: Authority citations. Each section in a document subject to codification must include, or be covered by, a complete citation of the authority under which the section is issued, including -- (a) General or specific authority delegated by statute; and (b) Executive delegations, if any, necessary to link the statutory authority to the issuing agency.

§ 21.41 Agency responsibility. (a) Each issuing agency is responsible for the accuracy and integrity of the citations of authority in the documents it issues. (b) Each issuing agency shall formally amend the citations of authority in its codified material to reflect any changes therein.

58. Employee taxes described above (subtitles A & C of the Internal Revenue Code) are excise or privilege taxes rather than direct taxes on enterprise of common right, as demonstrated at section 31.3101-1 of title 26, Code of Federal Regulations: "The employee tax is measured by the amount of wages received after 1954 with respect to employment after 1936."

Where the wage is not the object, but the measure, the tax is against exercise of a privilege, and is therefore an excise rather than a direct tax.

59. Criminal penalties for fraudulent returns or reports relating to subtitle A & C taxes are clearly applicable to agents of United States agencies only, as demonstrated by title 26, Code of Federal Regulations, Parts 301.7207-1 & 301.7214-1:

§ 301.7207-1 Fraudulent returns, statements, or other documents.

Any person who willfully delivers or discloses to any officer or employee of the Internal Revenue Service any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to section 6047 (b) or (c) or, section 6104(d), to furnish information to any officer or employee of the Internal Revenue Service or any other person who willfully furnishes to such officer or employee of the Internal Revenue Service or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than \$1,000, or imprisoned not more than 1 Year, or both.

§ 301.7214-1 Offenses by officers and employees of the United States.

Any officer or employee of the United States acting in connection with any revenue law of the United States required to make a written report under the provisions of section 7214(a)(8) shall submit such report to the Commissioner, or to a regional commissioner or district director.

60. Seizure authority being vested in the Bureau of Alcohol, Tobacco and Firearms, to the exclusion of IRS under provisions of subtitles A & C of the Internal Revenue Code, is confirmed at title 26, Code of Federal Regulations, Part 301.7321-1:

§ 301.7321-1 Seizure of property.

Any property subject to forfeiture to the United States under any provision of the Code may be seized by the district director or assistant regional commissioner (alcohol, tobacco, and firearms). Upon seizure of property by the district director he shall notify the assistant regional commissioner (alcohol, tobacco, and firearms) for the region wherein the district is located who will take charge of the property and arrange for its disposal or retention under the provisions of law and regulations applicable thereto.

61. Seized property may be delivered to the U.S. marshal, per title 26, Code of Federal Regulations, Part 301.7322-1:

§ 301.7322-1 Delivery of seized property to U.S. marshal.

Any forfeitable property which may be seized under the provisions of the Code may, at the option of the assistant regional commissioner (alcohol, tobacco, and firearms) be delivered to the U.S. marshal of the judicial district wherein the property was seized, and remain in the care and custody and under the control of such marshal, pending the disposal thereof as provided by law.

[This provision is relevant as, in accordance with Article IV § 4 of the United States Constitution, subsequent authorities will demonstrate that the U.S. Marshal does not have jurisdiction in the several States.]

62. The type of tax addressed above is clarified at 26 CFR § 301.7512-1:

§ 301.7512-1 Separate accounting for certain collected taxes.

(a) Scope. The provisions of section 7512 and this section apply to --

(1) The following taxes imposed by subtitle C of the Code in respect of wages or compensation paid after February 11, 1958, for pay periods beginning after such date:

(i) The employee tax imposed by section 3101 of chapter 21 (Federal Insurance Contribution Act).

(ii) The employee tax imposed by section 3201 of chapter 22 (Railroad Retirement Tax Act), and

(iii) The income tax required to be withheld on wages by section 3402 of chapter 24 (Collection of Income Tax at Source on Wages)...

63. The obligation on employers and the means for employees for collecting over-payment directly from the employer is better demonstrated at title 26, Code of Federal Regulations, Part 601.104(c)(1) & (2):

(1)(ii) *Income tax withholding.* If an employer files a return reporting and paying less than the correct amount of income tax required to be withheld from wages paid during the return period, the employer is required to report and pay the additional amount due, either (a) on a return for any return period in the calendar year in which the wages were paid, or (b) on a supplemental return for the return period in which the wages were paid ... If an employer reports and pays less than the correct amount of income tax required to be withheld in a calendar year, and the employer does not correct the underpayment in the same calendar year, the employer should consult the District Director of Internal Revenue as to the manner of correcting the error.

(2) *Overcollections from employees -- (I) Employee tax.* If an employer collects from an employee more than the correct amount of employee tax under the Federal Insurance Contributions Act or the Railroad Retirement Act, and the error is ascertained within the applicable period of limitation on credit or refund, the employer is required either to repay the amount to the employee, or to reimburse the employee by applying the amount of the overcollection against employee tax which otherwise would be collected from the employee after the error is ascertained...

(ii) *Income tax withholding.* If, in any return period in a calendar year, an employer withholds more than the correct amount of income tax, and pays over to the Internal Revenue Service the amount withheld, the employer may repay or reimburse the employee in the excess amount in any subsequent return period in the same calendar year. If the amount is so repaid, the employer is required to obtain and keep the employee's written receipt showing the date and amount of the repayment...

64. Internal Revenue Service and Department of Treasury principals are fully aware of Fifth Amendment due process requirements preserved in the Internal Revenue Code (26 USC § 7804(b)), as rules for appeals clearly acknowledge substantial due process at title 26, Code of Federal Regulations, Part 601.106(f)(1):

(1) *Rule I.* An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution...

65. Title 26, Code of Federal Regulations, Part 601.401(a) affirms that the "employer" is liable for deducting, reporting, and paying taxes subject to Internal Revenue Code subtitle A & C taxes:

(3) *Collection methods.* Employment taxes are collected by means of returns and by withholding by employers. Employee tax must be deducted and withheld by employers from "wages" or "compensation" (including tips reported in writing to employer) paid to employees, and the employer is liable for the employee tax whether or not it is so deducted...

(5)(vi) *Employers under chapter 23 of the Code.* Every person who is an employer as defined by the Federal Unemployment Tax Act shall deposit the tax imposed under Chapter 23 on or before the last day of the first calendar month following the quarterly period in which the amount of such tax exceeds \$100.

(6) *Separate accounting.* If an employer fails to withhold and pay over income, social security, or railroad retirement tax due on wages of employees, the employer may be required by the district director to collect such taxes and deposit them in a separate banking account in trust for the United States not later than the second banking day after such taxes are collected.

66. One of the few times an "employee" might file a return with the Internal Revenue Service is for refund of employee tax under certain special conditions, as stipulated at title 26, Code of Federal Regulations, Part 601.401(d):

(d) *Special refunds of employee social security tax.* (1) An employee who receives wages from more than one employer during a calendar year may, under certain conditions, receive a "special refund" of the amount of employee social security tax (i.e., employee tax under the Federal Insurance Contributions Act) deducted and withheld from wages that exceed the following amounts...

67. Title 27, Code of Federal Regulations, page v: "The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510)." [this cite is more space economical than reproducing 44 USC §§ 1507 & 1510]

68. Title 27, Code of Federal Regulations, Part 1: "§ 1.1 General. The regulations in this part relate to requirements governing the issuance, amendment, denial, revocation, suspension, automatic termination, and annulment of basic permits and the duration of permits ... under the Federal Alcohol Administration Act."

69. Title 27, Code of Federal Regulations, Part 250, Subpart B -- Definitions [selectively reproduced]:

§ 250.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section...

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

District director. A district director of internal revenue.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Permit. A formal written authorization of the Secretary of the Treasury of Puerto Rico.

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Revenue Agent. Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

Secretary. The Secretary of the Treasury of Puerto Rico.

Secretary or his delegate. The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

United States Bureau of Alcohol, Tobacco and Firearms office. The Bureau of Alcohol, Tobacco and Firearms office in Puerto Rico operating under the direction of the Regional Director (Compliance), North Atlantic Region, New York, N.Y. 10048.

70. In conjunction with various treaties and executive agreements on private international law, the Department of Justice and various agencies in the Department are representative of the "Central Authority" and "Competent Authority", with the "United States of America", a/k/a UNITED STATES OF AMERICA serving as nominee for these foreign principals (28 CFR §§ 0.49 & 0.64-1):

§ 0.49 International judicial assistance.

The Assistant Attorney General in charge of the Civil Division shall direct and supervise the following functions:

(a) The functions of the "Central Authority" under the Convention between the United States and other Governments on the Taking of Evidence Abroad in Civil and Commercial Matters, TIAS 7444, which entered into force on October 7, 1972.

(b) The functions of the "Central Authority" under the Convention between the United States and other Governments on the Service Abroad of Judicial and Extrajudicial Documents, TIAS 6638, which entered into force on February 10, 1969.

(c) To receive letters of requests issued by foreign and international judicial authorities which are referred to the Department of Justice through diplomatic or other governmental channels, and to transmit them to the appropriate courts or officers in the United States for execution.

(d) To receive and transmit through proper channels letters of request addressed by courts in the

United States to foreign tribunals in connection with litigation to which the United States is a party.

[Order No. 555-73, 38 FR 32805, Nov. 28, 1973]

§ 0.64-1 Central or Competent Authority under treaties and executive agreements on mutual assistance in criminal matters.

The Assistant Attorney General in charge of the Criminal Division shall have the authority and perform the functions of the "Central Authority" or "Competent Authority" (or like designation) under treaties and executive agreements between the United States of America and other countries on mutual assistance in criminal matters which designate the Attorney General or the Department of Justice as such authority. The Assistant Attorney General, Criminal Division, is authorized to redelegate this authority to the Deputy Assistant Attorneys General, Criminal Division, and to the Director and Deputy Directors of the Office of International Affairs, Criminal Division.

[Order 918-80, 45 FR 79758, Dec. 2, 1980, as amended by Order 1274-88, 53 FR 21997, June 13, 1988]

71. The Department of Justice was established by act of June 22, 1870, with the Attorney General as head of the Department. The Attorney General was previously a member of the President's Cabinet but did not preside over a department. With establishment of the Department of Justice, judicial and enforcement previously administered by the various Government departments was consolidated in the Department of Justice, with the Department of Interior being particularly important where the instant matter is concerned [summarized from The United States Government Manual, 1995/96; Department of Justice organization, as amended, currently at 28 U.S.C. 501, 503, 509 note). General powers and primary delegation orders are prescribed in the Code of Federal Regulations, title 28, Part 0, with general functions of the Criminal Division set out below:

28 CFR, Part 0 (Attorney General & Department of Justice General Powers)

Subpart K Criminal Division

§ 0.55 General functions.

The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Criminal Division:

(a) Prosecutions for Federal crimes not otherwise specifically assigned.

(b) Cases involving criminal frauds against the United States except cases assigned to the Antitrust Division by § 0.40(a) involving conspiracy to defraud the Federal Government by violation of the antitrust laws, and tax fraud cases assigned to the Tax Division by subpart N of this part.

(c) All criminal and civil litigation under the Controlled Substances Act, 84 Stat. 1242, and the Controlled Substances Import and Export Act, 84 Stat. 1285 (titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970).

(d) Civil or criminal forfeiture or civil penalty actions (including petitions for remission or mitigation of forfeitures and civil penalties, offers in compromise, and related proceedings) under the Federal Aviation Act of 1958, the Contraband Transportation Act, the Copyrights Act, the customs laws (except those assigned to the Civil Division which involve sections 592, 704(i)(2) or 734(i)(2) of the Tariff Act of 1930), the Export Control Act of 1949, the Federal Alcohol Administration Act, the Federal Seed Act, the Gold Reserve Act of 1934, the Hours of Service Act, the Animal Welfare Act, the Immigration and Nationality Act (except civil penalty actions and petitions and offers related thereto), the neutrality laws, laws relating to cigarettes, liquor, narcotics and dangerous drugs, other controlled substances, gambling, war materials, pre-Colombian artifacts, coinage, and firearms, locomotive inspection (45 U.S.C. 22, 23, 28-34), the Organized Crime Control Act of 1970, prison-made goods (18 U.S.C. 1761-1762), the Safety Appliance Act, standard barrels (15 U.S.C. 231-242), the Sugar Act of 1948, and the Twenty-Eight Hour Law.

(e) Subject to the provisions of subpart Y of this part, consideration, acceptance, or rejection of offers in compromise of criminal and tax liability under the laws relating to liquor, narcotics and dangerous drugs, gambling, and firearms, in cases in which the criminal liability remains unresolved.

(f) All criminal litigation and related investigations and inquiries pursuant to all the power and authority of the Attorney General to enforce the Immigration and Nationality Act and all other laws relating to the immigration and naturalization of aliens; all advice to the Attorney General with respect to the exercise of his parole authority under 8 U.S.C. 1182(d)(5) concerning aliens who are excludable under 8 U.S.C. 1182(a)(23), (28), (29), or (33); and all civil litigation with respect to the individuals identified in 8 U.S.C. 1182(a)(33), 1251(a)(19).

(g) Coordination of enforcement activities directed against organized crime and racketeering.

(h) Enforcement of the Act of January 2, 1951, 64 Stat. 1134, as amended by the Gambling Devices Act of 1962, 76 Stat. 1075, 15 U.S.C. 1171 et seq., including registration thereunder. (See also 28 CFR 3.2)

(i) All civil proceedings seeking exclusively equitable relief against Criminal Division activities including criminal investigations, prosecutions and other criminal justice activities (including without limitation, applications for writs of habeas corpus not challenging exclusion, deportation or detention under the immigration laws and coram nobis), except that any proceeding may be conducted, handled, or supervised by another division by agreement between the head of such division and the Assistant Attorney General in charge of the Criminal Division.

(j) International extradition proceedings.

(k) Relation of military to civil authority with respect to criminal matters affecting both.

(l) All criminal matters arising under the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519).

(m) Enforcement of the following-described provisions of the United States Code-

(1) Sections 591 through 593 and sections 595 through 612 of title 18, U.S. Code, relating to

elections and political activities;

(2) Sections 241, 242, and 594 of title 18, and sections 1973i and 1973j of title 42, U.S. Code, insofar as they relate to voting and election matters not involving discrimination or intimidation on grounds of race or color, and section 245(b)(1) of title 18 U.S. Code, insofar as it relates to matters not involving discrimination or intimidation on grounds of race, color, religion, or national origin;

(3) Section 245(b)(3) of title 18, U.S. Code, pertaining to forcible interference with persons engaged in business during a riot or civil disorder; and

(4) Sections 241 through 256 of title 2, U.S. Code (Federal Corrupt Practices Act). (See § 0.50 (a).)

(n) Civil actions arising under 39 U.S.C. 3010, 3011 (Postal Reorganization Act).

(o) Resolving questions that arise as to Federal prisoners held in custody by Federal officers or in Federal prisons, commitments of mentally defective defendants and juvenile delinquents, validity and construction of sentences, probation, and parole.

(p) Supervision of matters arising under the Escape and Rescue Act (18 U.S.C. 751, 752), the Fugitive Felon Act (18 U.S.C. 1072, 1073), and the Obstruction of Justice Statute (18 U.S.C. 1503).

(q) Supervision of matters arising under the Bail Reform Act of 1966 (28 U.S.C. 3041-3143, 3146-3152, 3568).

(r) Supervision of matters arising under the Narcotic Addict Rehabilitation Act of 1966 (18 U.S.C. 4251-4255; 28 U.S.C. 2901-2906; 42 U.S.C. 3411-3426, 3441, 3442).

(s) Civil proceedings in which the United States is the plaintiff filed under the Organized Crime Control Act of 1970, 18 U.S.C. 1963-1968.

(t) Upon request, certifications under 18 U.S.C. 245.

(u) Exercise of the authority vested in the Attorney General under 10 U.S.C. 374(b)(2)(E) to approve the use of military equipment by Department of Defense personnel to provide transportation and base of operations support in connection with a civilian law enforcement operation.

[Order No. 423-69, 34 FR 20388, Dec. 31, 1969]

Editorial Note: For Federal Register citations affecting § 0.55, see the List of Sections Affected in the Finding Aids section of this volume.

§ 0.56 Exclusive or concurrent jurisdiction.

The Assistant Attorney General in charge of the Criminal Division is authorized to determine administratively whether the Federal Government has exclusive or concurrent jurisdiction over offenses committed upon lands acquired by the United States, and to consider problems arising

therefrom. [emphasis added]

Authority relating to internal revenue laws and/or narcotics clearly relates to taxing, regulatory and enforcement authority under administration of BATF and Customs, without reference to income and related tax prescribed in subtitles A & C of the Internal Revenue Code. Where "obstruction of justice" authority is concerned, criminal prosecution is clearly under Coast Guard authority, as will be demonstrated in subsequent authorities.

72. As is the case for the Criminal Division, the Tax Division of the Department of Justice has authority primarily relating to excise taxes and import duties, and narcotics, as demonstrated by title 28 of the Code of Federal Regulations, Part 0, Subpart N:

Subpart N Tax Division

§ 0.70 General functions.

The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Tax Division:

(a) Prosecution and defense in all courts, other than the Tax Court, of civil suits, and the handling of other matters, arising under the internal revenue laws, and litigation resulting from the taxing provisions of other Federal statutes (except civil forfeiture and civil penalty matters arising under laws relating to liquor, narcotics, gambling, and firearms assigned to the Criminal Division by § 0.55(d)).

(b) Criminal proceedings arising under the internal revenue laws, except the following:

Proceedings pertaining to misconduct of Internal Revenue Service personnel, to taxes on liquor, narcotics, firearms, coin-operated gambling and amusement machines, and to wagering, forcible rescue of seized property (26 U.S.C. 7212(b)), corrupt or forcible interference with an officer or employee acting under the Internal Revenue laws (26 U.S.C. 7212(a)), unauthorized disclosure of information (26 U.S.C. 7213), and counterfeiting, mutilation, removal, or reuse of stamps (26 U.S.C. 7208).

(c)(1) Enforcement of tax liens, and mandamus, injunctions, and other special actions or general matters arising in connection with internal revenue matters.

(2) Defense of actions arising under section 2410 of title 28 of the U.S. Code whenever the United States is named as a party to an action as the result of the existence of a Federal tax lien, including the defense of other actions arising under section 2410, if any, involving the same property whenever a tax-lien action is pending under that section.

(d) Appellate proceedings in connection with civil and criminal cases enumerated in paragraphs (a) through (c) of this section and in § 0.71, including petitions to review decisions of the Tax Court of the United States.

[Order No. 423-69, 34 FR 20388, Dec. 31, 1969, as amended by Order No. 445-70, 35 FR 19397, Dec. 23, 1970; Order No. 699-77, 42 FR 15315, Mar. 21, 1977; Order No. 960-81, 46 FR 52346, Oct. 27, 1981]

§ 0.71 Delegation respecting immunity matters.

The Assistant Attorney General in charge of the Tax Division is authorized to handle matters involving the immunity of the Federal Government from State or local taxation (except actions to set aside ad valorem taxes, assessments, special assessments, and tax sales of Federal real property, and matters involving payments in lieu of taxes), as well as State or local taxation involving contractors performing contracts for or on behalf of the United States.

Of particular note where the instant matter is concerned, the Tax Division of the Department of Justice does not have authority to prosecute 26 USC § 7212(a), but the authority will be found to be vested in the Criminal Division relating to matters principally under Coast Guard (Customs) and/or BATF jurisdiction.

73. Authority conveyed to the United States Attorney for prosecution of obstruction of justice statutes is at 28 CFR, Part 0, Subpart Z:

Subpart Z 1-Prosecutions for Obstruction of Justice and Related Charges

§ 0.179 Scope.

This subpart applies to the following matters:

- (a) Obstruction of justice and obstruction of a criminal investigation (18 U.S.C. 1501-1511);
- (b) Perjury and subornation of perjury (18 U.S.C. 1621, 1622);
- (c) False declarations before a grand jury or court (18 U.S.C. 1623);
- (d) Fraud and false statements in matters within the jurisdiction of a government agency (18 U.S.C. 1001); and
- (e) Conspiracy to defraud the United States (18 U.S.C. 371).

[Order No. 630-75, 40 FR 53390, Nov. 18, 1975]

§ 0.179a Enforcement responsibilities.

(a) Matters involving charges of obstruction of justice, perjury, fraud or false statement, as described in § 0.179, shall be under the supervisory jurisdiction of the Division having responsibility for the case or matter in which the alleged obstruction occurred. The Assistant Attorney General in charge of each Division shall have full authority to conduct prosecution of such charges, including authority to appoint special attorneys to present evidence to grand juries. However, such enforcement shall be preceded by consultation with the Assistant Attorney General in charge of the Criminal Division, to determine the appropriate supervisory jurisdiction. (See 38 CFR 0.55(p).)

(b) In the event the Assistant Attorney General in charge of the Division having responsibility for the case or matter does not wish to assume supervisory jurisdiction he shall refer the matter to the Assistant Attorney General in charge of the Criminal Division for handling by that Division.

[Order No. 630-75, 40 FR 53390, Nov 18, 1975]

74. The following table from title 28, Code of Federal Regulations, Part 0, Subpart Z, stipulates actions relating to "obstruction of justice" statutes in the United States Code:

28 CFR Subpart Z : 1-Prosecutions for Obstruction of Justice and Related Charges

28 CFR § 0.179 : Scope.

28 CFR § 0.179a : Enforcement responsibilities.

28 CFR § 2.20 : Paroling policy guidelines: Statement of general policy.

28 CFR § 2.20 : Paroling policy guidelines: Statement of general policy.

28 CFR § 67.305 : Causes for debarment.

28 CFR § 77.6 : Exceptions; represented parties.

29 CFR § 98.305 : Causes for debarment.

29 CFR § 1471.305 : Causes for debarment.

31 CFR § 19.305 : Causes for debarment.

32 CFR § 25.305 : Causes for debarment.

33 CFR CHAPTER 73 : OBSTRUCTION OF JUSTICE

34 CFR § 85.305 : Causes for debarment.

36 CFR § 1209.305 : Causes for debarment.

38 CFR § 44.305 : Causes for debarment.

40 CFR § 32.305 : Causes for debarment.

41 CFR § 105-68.305 : Causes for debarment.

43 CFR § 12.305 : Causes for debarment.

44 CFR § 17.305 : Causes for debarment.

45 CFR § 76.305 : Causes for debarment.

45 CFR § 620.305 : Causes for debarment.

45 CFR § 1154.305 : Causes for debarment.

45 CFR § 1169.305 : Causes for debarment.

45 CFR § 1185.305 : Causes for debarment.

45 CFR § 1229.305 : Causes for debarment.

45 CFR § 2542.210 : Causes for debarment.

49 CFR § 29.305 : Causes for debarment.

The only listing for criminal prosecution of "obstruction of justice" statutes refers to title 33 of the Code of Federal Regulations, Chapter 73 (located in Part 1). This will be found to be under Coast Guard authority.

75. The following provisions from title 33, Code of Federal Regulations, Part 1.01 & 1.07 Appendix, prescribe general authority of the Coast Guard, and Chapter 73 authority relating to prosecution of "obstruction of justice" statutes, as specified in 28 CFR, Part 0, Subpart Z. Although lengthy, the entire appendix relating to prosecution of offenses under Coast Guard authority is reproduced as authority for civil/criminal actions is concurrent with maritime authority, prescribed elsewhere in 33 CFR, Part 1:

33 CFR SUBCHAPTER A : GENERAL

33 CFR PART 1 : GENERAL PROVISIONS

33 CFR Subpart 1.01 : Delegation of Authority

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716 and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; 49 CFR 1.45(b), 1.46; section 1.01-70 also issued under the authority of E.O. 12580, 3 C.F.R., 1987 Comp., p. 193; and sections 1.01-80 and 1.01-85 also issued under the authority of E.O. 12777, 3 C.F.R., 1991 Comp., p. 351.

33 CFR § 1.01-1 : District Commander.

Final authority for the performance within the confines of his district of the functions of the Coast Guard, which in general terms are maritime law enforcement, saving and protecting life and property, safeguarding navigation on the high seas and navigable waters of the United States, and readiness for military operations, is delegated to the District Commander by the Commandant. In turn delegations of final authority run from the District Commander to commanding officers of units under the District Commander for the performance of the functions of law enforcement, patrol of marine regattas and parades, and the saving of life and property which come within the scope of their activities.

[CGFR 48-72, 13 FR 9330, Dec. 31, 1948]

33 CFR § 1.01-20 : Officer in Charge, Marine Inspection.

(a) Final authority is vested in the Officer in Charge, Marine Inspection, for the performance, within the area of his jurisdiction, of the following functions: Inspection of vessels in order to

determine that they comply with the applicable laws, rules, and regulations relating to safe construction, equipment, manning, and operation and that they are in a seaworthy condition for the services in which they are operated; shipyard and factory inspections; the investigation of marine casualties and accidents; the licensing, certification, shipment and discharge of seamen; the investigating and initiating of action in cases of misconduct, negligence, or incompetence of merchant marine officers or seamen; and the enforcement of vessel inspection, navigation, and seamen's laws in general. Specific procedures for appealing the decisions of the Officer in Charge, Marine Inspection, or of his subordinates are set forth in 46 CFR parts 1 to 4.

(b) This officer is also delegated authority to prescribe distinctive lights for ferryboats operated by different companies as provided by §§ 80.15, 90.18, and 95.27 of this chapter.

[CGFR 48-72, 13 FR 9330, Dec. 31, 1948] [emphasis added]

33 CFR, Part 1.07 Appendix

TITLE 18-CRIMES AND CRIMINAL PROCEDURE

This appendix lists penalty provisions of statutes the Coast Guard is authorized to enforce. It includes penalty provisions of laws that the Coast Guard enforces and administers under this part. It also includes penalty provisions of laws that another agency administers, but the Coast Guard enforces when violations occur on the high seas and waters over which the United States has jurisdiction. Although this list is intended to be complete, the omission of any statute from the list has no effect upon the authority of the Coast Guard to enforce a statute not listed. It also states the penalty procedure for violation of each provision ("civil" or "criminal") used by the Coast Guard.

33 CFR CHAPTER 3 : ANIMALS, BIRDS AND FISH

18 U.S.C. 43-Transportation of wildlife taken in violation of State, National, or foreign laws (criminal)

33 CFR CHAPTER 7 : ASSAULT

18 U.S.C. 111-Assaulting, resisting, or impeding certain officers or employees (criminal) 18 U.S.C. 113-Assault within maritime and territorial jurisdiction (criminal)

33 CFR CHAPTER 11 : BRIBERY, GRAFT AND CONFLICTS OF INTEREST

18 U.S.C. 201-Bribery of public officials and witnesses (criminal) 18 U.S.C. 203-Compensation to members of Congress, officers, and others in matters affecting the Government (criminal) 18 U.S.C. 205-Activities of officers and employees in claims against and other matters affecting the Government (criminal) 18 U.S.C. 219-Officers and employees acting as agents of foreign principals (criminal)

33 CFR CHAPTER 13 : CIVIL RIGHTS

18 U.S.C. 241-Conspiracy against rights of citizens (criminal) 18 U.S.C. 242-Deprivation of rights under color of law (criminal) 18 U.S.C. 244-Discrimination against person wearing uniform of armed forces (criminal) 18 U.S.C. 286-Conspiracy to defraud the Government with

respect to claims (criminal) 18 U.S.C. 287-False, fictitious, or fraudulent claims (criminal)

33 CFR CHAPTER 19 : CONSPIRACY

18 U.S.C. 371-Conspiracy to commit offense or to defraud United States (criminal) 18 U.S.C. 372-Conspiracy to impede or injure officer (criminal)

33 CFR CHAPTER 25 : COUNTERFEITING AND FORGERY

18 U.S.C. 496-Customs matters (criminal) 18 U.S.C. 498-Military or naval discharge certificates (criminal) 18 U.S.C. 499-Military, naval or official passes (criminal)

33 CFR CHAPTER 27 : CUSTOMS

18 U.S.C. 545-Smuggling goods into the United States (criminal) 18 U.S.C. 546-Smuggling goods into foreign countries (criminal)

33 CFR CHAPTER 29 : ELECTIONS AND POLITICAL ACTIVITIES

18 U.S.C. 592-Troops at polls (criminal) 18 U.S.C. 593-Interference at polls (criminal) 18 U.S.C. 594-Intimidation of voters (criminal) 18 U.S.C. 596-Polling armed forces (criminal) 18 U.S.C. 602-Solicitation of political contributions (criminal) 18 U.S.C. 603-Place of solicitation (criminal) 18 U.S.C. 607-Making political contributions (criminal)

33 CFR CHAPTER 31 : EMBEZZLEMENT AND THEFT

18 U.S.C. 641-Public money, property, or records (criminal) 18 U.S.C. 642-Tools and materials for counterfeiting purposes (criminal) 18 U.S.C. 643-Accounting generally for public money (criminal) 18 U.S.C. 651-Disbursing officer falsely certifying full payment (criminal) 18 U.S.C. 652-Disbursing officer paying lesser in lieu of lawful amounts (criminal) 18 U.S.C. 653-Disbursing officer misusing public funds (criminal) 18 U.S.C. 654-Officer or employee of United States converting property of another (criminal) 18 U.S.C. 659-Interstate or foreign baggage, express or freight; State prosecutions (criminal) 18 U.S.C. 661-Within special maritime and territorial jurisdiction (criminal) 18 U.S.C. 662-Receiving stolen property within special maritime and territorial jurisdiction (criminal)

33 CFR CHAPTER 33 : EMBLEMS, INSIGNIA AND NAMES

18 U.S.C. 701-Official badges, identification cards, other insignia (criminal) 18 U.S.C. 702-Uniform of armed forces and Public Health Service (criminal) 18 U.S.C. 704-Military medals or decorations (criminal) 18 U.S.C. 705-Badge or medal of veteran's organizations (criminal)

33 CFR CHAPTER 35 : ESCAPE AND RESCUE

18 U.S.C. 751-Prisoners in custody of institution or officer (criminal) 18 U.S.C. 752-Instigating or assisting escape (criminal) 18 U.S.C. 755-Officer permitting escape (criminal) 18 U.S.C. 756-Internee of belligerent nation (criminal) 18 U.S.C. 757-Prisoners of war or enemy aliens (criminal)

33 CFR CHAPTER 37 : ESPIONAGE AND CENSORSHIP

18 U.S.C. 793-Gathering, transmitting or losing defense information

to aid foreign government (criminal) 18 U.S.C. 794-Gathering or delivering defense information to aid foreign government (criminal) 18 U.S.C. 795-Photographing and sketching defense installations (criminal) 18 U.S.C. 796-Use of aircraft for photographing defense installations (criminal) 18 U.S.C. 797-Publication and sale of photographs of defense installations (criminal) 18 U.S.C. 798-Disclosure of classified information (criminal)

33 CFR CHAPTER 40 : INFORMATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

18 U.S.C. 844-Penalties (criminal)

33 CFR CHAPTER 41 : EXTORTION AND THREATS

18 U.S.C. 872-Extortion by officers or employees of the United States (criminal) 18 U.S.C. 873-Blackmail (criminal)

33 CFR CHAPTER 43 : FALSE PERSONATION

18 U.S.C. 911-Citizen of the United States (criminal) 18 U.S.C. 912-Officer or employee of the United States (criminal) 18 U.S.C. 913-Impersonator making arrest or search (criminal)

33 CFR CHAPTER 44 : FIREARMS

18 U.S.C. 924-Penalties (criminal)

33 CFR CHAPTER 45 : FOREIGN RELATIONS

18 U.S.C. 952-Diplomatic codes and correspondence (criminal) 18 U.S.C. 957-Possession of property in aid of foreign government (criminal) 18 U.S.C. 960-Expedition against friendly nation (criminal) 18 U.S.C. 961-Strengthening armed vessel of foreign national (criminal) 18 U.S.C. 962-Arming vessel against friendly nation (criminal) 18 U.S.C. 963-Detention of armed vessel (criminal) 18 U.S.C. 964-Delivering armed vessel to belligerent nation (criminal) 18 U.S.C. 965-Verified statements as prerequisite to vessel's departure (criminal) 18 U.S.C. 966-Departure of vessel forbidden for false statements (criminal) 18 U.S.C. 967-Departure of vessel in aid of neutrality (criminal) 18 U.S.C. 969-Exportation of arms, liquors, and narcotics to Pacific Islands (criminal)

33 CFR CHAPTER 47 : FRAUD AND FALSE STATEMENTS

18 U.S.C. 1001-Statements and entries generally (criminal) 18 U.S.C. 1002-Possession of false papers to defraud United States (criminal) 18 U.S.C. 1015-Naturalization, citizenship or alien registry (criminal) 18 U.S.C. 1016-Acknowledgment of appearance or oath (criminal) 18 U.S.C. 1017-Government seals wrongfully used and instruments

wrongfully sealed (criminal) 18 U.S.C. 1018-Official certificates or writings (criminal) 18 U.S.C. 1022-Delivery of certificate, voucher, receipt for military or naval property (criminal) 18 U.S.C. 1023-Insufficient delivery of mover or property for military or naval science (criminal)

18 U.S.C. 1024-Purchase or receipt of military, naval, or veteran's facilities (criminal) 18 U.S.C. 1025-False pretenses on high seas and other waters (criminal)

33 CFR CHAPTER 49 : FUGITIVES FROM JUSTICE

18 U.S.C. 1071-Concealing person from arrest (criminal) 18 U.S.C. 1072-Concealing escaped prisoner (criminal) 18 U.S.C. 1073-Flight to avoid prosecution or giving testimony (criminal) 18 U.S.C. 1074-Flights to avoid prosecution for damaging or destroying any building or other real or personal property (criminal)

33 CFR CHAPTER 50 : GAMBLING

18 U.S.C. 1082-Gambling ships (criminal) 18 U.S.C. 1083-Transportation between shore to ship; penalties (criminal)

33 CFR CHAPTER 51 : HOMICIDE

18 U.S.C. 1111-Murder (criminal) 18 U.S.C. 1112-Manslaughter (criminal) 18 U.S.C. 1113-Attempt to commit murder or manslaughter (criminal) 18 U.S.C. 1115-Misconduct or neglect of ship officers (criminal)

33 CFR CHAPTER 57 : LABOR

18 U.S.C. 1231-Transportation of strikebreakers (criminal)

33 CFR CHAPTER 59 : LIQUOR TRAFFIC

18 U.S.C. 1262-Transportation into state prohibiting sale (criminal) 18 U.S.C. 1263-Marks and labels on packages (criminal)

33 CFR CHAPTER 61 : LOTTERIES

18 U.S.C. 1301-Importing or transporting lottery tickets (criminal)

33 CFR CHAPTER 65 : MALICIOUS MISCHIEF

18 U.S.C. 1361-Government property or contracts (criminal) 18 U.S.C. 1362-Communications lines, stations or systems (criminal) 18 U.S.C. 1363-Buildings or property within special maritime and territorial jurisdiction (criminal) 18 U.S.C. 1364-Interference with foreign commerce by violence (criminal)

33 CFR CHAPTER 67 : MILITARY AND NAVY

18 U.S.C. 1381-Enticing desertion and harboring deserters (criminal) 18 U.S.C. 1382-Entering military, naval or Coast Guard property (criminal) 18 U.S.C. 1383-Restrictions in military areas and zones (criminal)

33 CFR CHAPTER 69 : NATIONALITY AND CITIZENSHIP

18 U.S.C. 1424-Personation or misuse of papers in naturalization proceedings (criminal) 18

U.S.C. 1426-Reproduction of naturalization or citizenship
papers (criminal)

33 CFR CHAPTER 71 : OBSCENITY

18 U.S.C. 1462-Importation or transportation of obscene matters (criminal) 18 U.S.C. 1465-
Transportation of obscene matters for sale or distribution (criminal)

33 CFR CHAPTER 73 : OBSTRUCTION OF JUSTICE

18 U.S.C. 1501-Assault on process server (criminal) 18 U.S.C. 1503-Influencing or injuring
officers, jurors or witnesses generally (criminal) 18 U.S.C. 1505-Obstruction of proceedings
before departments, agencies, and committees (criminal) 18 U.S.C. 1510-Obstruction of
criminal investigation (criminal)

33 CFR CHAPTER 77 : PEONAGE AND SLAVERY

18 U.S.C. 1581-Peonage; obstructing enforcement (criminal) 18 U.S.C. 1582-Vessels for slave
trade (criminal) 18 U.S.C. 1583-Enticement into slavery (criminal) 18 U.S.C. 1584-Sale into
involuntary servitude (criminal) 18 U.S.C. 1585-Seizure, detention, transportation or sales of
slaves (criminal) 18 U.S.C. 1586-Service on vessels in slave trade (criminal) 18 U.S.C. 1587-
Possession of slaves aboard vessel (criminal) 18 U.S.C. 1588-Transportation of slaves from
United States (criminal)

33 CFR CHAPTER 79 : PERJURY

18 U.S.C. 1621-Perjury generally (criminal) 18 U.S.C. 1622-Subornation of perjury (criminal)

33 CFR CHAPTER 81 : PIRACY AND PRIVATEERING

18 U.S.C. 1651-Piracy under law of nations (criminal) 18 U.S.C. 1652-Citizens as pirates
(criminal) 18 U.S.C. 1653-Aliens as pirates (criminal) 18 U.S.C. 1654-Arming or serving on
privateers (criminal) 18 U.S.C. 1655-Assault on commander as piracy (criminal) 18 U.S.C.
1656-Conversion or surrender of vessel (criminal) 18 U.S.C. 1657-Corruption of seamen and
confederating with pirates (criminal) 18 U.S.C. 1658-Plunder of distressed vessel (criminal) 18
U.S.C. 1659-Attack to plunder vessel (criminal) 18 U.S.C. 1660-Receipt of pirate property
(criminal) 18 U.S.C. 1661-Robbery ashore (criminal)

33 CFR CHAPTER 83 : POSTAL SERVICE

18 U.S.C. 1695-Carriage of matter out of mail on vessels (criminal) 18 U.S.C. 1698-Prompt
delivery of mail from vessel (criminal) 18 U.S.C. 1699-Certification of delivery from vessel
(criminal) 18 U.S.C. 1719-Franking privilege (criminal)

33 CFR CHAPTER 95 : RACKETEERING

18 U.S.C. 1953-Interstate transportation of wagering paraphernalia (criminal) 18 U.S.C. 1955-
Prohibition of illegal gambling business (criminal)

33 CFR CHAPTER 99 : RAPE

18 U.S.C. 2031-Special maritime and territorial jurisdiction (criminal) 18 U.S.C. 2032-Carnal knowledge of female under 16 (criminal)

33 CFR CHAPTER 101 : RECORDS AND REPORTS

18 U.S.C. 2017-Concealment, removal, or mutilation generally (criminal) 18 U.S.C. 2074-False weather reports (criminal) 18 U.S.C. 2075-Officer failing to make returns or reports (criminal)

33 CFR CHAPTER 103 : ROBBERY AND BURGLARY

18 U.S.C. 2111-Special maritime and territorial jurisdiction (criminal) 18 U.S.C. 2112-Personal property of the United States (criminal) 18 U.S.C. 2114-Mail, money, or other property of the United States (criminal) 18 U.S.C. 2116-Railway or steamboat post office (criminal) 18 U.S.C. 2117-Breaking or entering carrier facilities (criminal)

33 CFR CHAPTER 105 : SABOTAGE

18 U.S.C. 2152-Fortifications, harbor defenses, or defensive sea areas (criminal) 18 U.S.C. 2153-Destruction of war material, war premises, or war utilities (criminal) 18 U.S.C. 2154-Production of defective war material, war premises, or war utilities (criminal) 18 U.S.C. 2155-Destruction of national-defense materials or national-defense premises or national-defense utilities (criminal) 18 U.S.C. 2156-Production of defective national-defense materials, national-defense premises, or national-defense utilities (criminal)

33 CFR CHAPTER 107 : SEAMEN AND STOWAWAYS

18 U.S.C. 2191-Cruelty to seamen (criminal) 18 U.S.C. 2192-Incitation of seamen to revolt or mutiny (criminal) 18 U.S.C. 2193-Revolt or mutiny of seamen (criminal) 18 U.S.C. 2194-Shanghaiing sailors (criminal) 18 U.S.C. 2195-Abandonment of sailors (criminal) 18 U.S.C. 2196-Drunkenness or neglect of duty by seamen (criminal) 18 U.S.C. 2197-Misuse of federal certificate, license, or document (criminal) 18 U.S.C. 2198-Seduction of female passenger (criminal) 18 U.S.C. 2199-Stowaways on vessels or aircraft (criminal)

33 CFR CHAPTER 109 : SEARCHES AND SEIZURES

18 U.S.C. 2231-Assault or resistance (criminal) 18 U.S.C. 2232-Destruction or removal of property to prevent seizure (criminal) 18 U.S.C. 2233-Rescue of seized property (criminal) 18 U.S.C. 2234-Authority exceeded in executing warrant (criminal) 18 U.S.C. 2235-Search warrant procured maliciously (criminal) 18 U.S.C. 2236-Searches without warrant (criminal)

33 CFR CHAPTER 111 : SHIPPING

18 U.S.C. 2271-Conspiracy to destroy vessels (criminal) 18 U.S.C. 2272-Destruction of vessel by owner (criminal) 18 U.S.C. 2273-Destruction of vessel by non-owner (criminal) 18 U.S.C. 2274-Destruction or misuse of vessel by person in charge (criminal) 18 U.S.C. 2275-Firing or tampering with vessels (criminal) 18 U.S.C. 2276-Breaking and entering vessel (criminal) 18 U.S.C. 2277-Explosives or dangerous weapons aboard vessels (criminal) 18 U.S.C. 2278-

Explosives on vessels carrying steerage passengers (criminal) 18 U.S.C. 2279-Boarding vessels before arrival (criminal)

33 CFR CHAPTER 113 : STOLEN PROPERTY

18 U.S.C. 2314-Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting (criminal) 18 U.S.C. 2316-Transportation of cattle (criminal) 18 U.S.C. 2318-Transportation, sale, or receipt of phonograph records bearing forged or counterfeit labels (criminal)

33 CFR CHAPTER 115 : TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

18 U.S.C. 2381-Treason (criminal) 18 U.S.C. 2382-Misprison or treason (criminal) 18 U.S.C. 2383-Rebellion or insurrection (criminal) 18 U.S.C. 2384-Seditious conspiracy (criminal) 18 U.S.C. 2385-Advocating overthrow of government (criminal) 18 U.S.C. 2387-Activities affecting armed forces generally (criminal) 18 U.S.C. 2388-Activities affecting armed forces during war (criminal)

33 CFR CHAPTER 117 : WHITE SLAVE TRAFFIC

18 U.S.C. 2421-Transportation generally (criminal)

76. Title 49, Code of Federal Regulations, Part 1.46:

§ 1.46 Delegations to Commandant of the Coast Guard.

The Commander of the Coast Guard is delegated authority to:

(b) Carry out all the activities of the Coast Guard, including, but not limited to, law enforcement, safety of life and property at sea...

(aa) Carry out the functions vested in the Secretary by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 420) for lands under the administration of the U.S. Coast Guard.

Federal Register

77. Congress never created a "Bureau of Internal Revenue" (Federal Register at 36 F.R. 849-890 [C.B. 1971 -1,698], 36 F.R. 11946 [C.B. 1971 - 2,577], and 37 F.R. 489-490; and Internal Revenue Manual 1100 at 1111.2). At 36 F.R., No. 12, for Tuesday, January 19, 1971, page 850, the following is found under Sec. 1111.2, pertaining to the Organic Act:

1111.2 ORGANIC ACT

(1) The office of the Commissioner of Internal Revenue was established by an act of Congress (12 Stat. 432) on July 1, 1862, and the first Commissioner of Internal Revenue took office on July 17, 1862.

(2) The act of July 1 provided:

*** That, for the purpose of superintending the collection of internal duties, stamp duties,

licenses, or taxes imposed by this Act, or which may be hereafter imposed, and of assessing the same, an office is hereby created in the Treasury Department to be called the office of the Commissioner of the Internal Revenue; *** Commissioner of Internal Revenue, *** shall be charged, and hereby is charged, under the direction of the Secretary of the Treasury, with preparing all the instructions, regulations, directions, forms, [etc.]...

Although circumstantial evidence suggests that Congress may have intended to create a Bureau of Internal Revenue by Act of July 1, 1862, the fact is, no such agency was created. It is also relevant that the Commissioner of Internal Revenue, created by Act of July 1, 1862, was an office in the Treasury Department, not the Department of the Treasury.

Reorganization Plans & Treasury Department Orders

78. The Federal Alcohol Administration, when abolished, was merged with the Bureau of Internal Revenue [Puerto Rico Trust #62 (Internal Revenue), at 31 USC § 1321], via Reorganization Plan No. III of 1940, with section 2 making the following change:

§ 2 Federal Alcohol Administration

The Federal Alcohol Administration, the offices of the members thereof, and the office of the Administrator are abolished, and their functions shall be administered under the direction and supervision of the Secretary of the Treasury through the Bureau of Internal Revenue in the Department of the Treasury.

79. The name of the "Bureau of Internal Revenue" was changed to Internal Revenue Service by T.O. No. 150-29, under signature of G. M. Humphrey, Secretary of the Treasury, on July 9, 1953.

80. The original Bureau of Customs, as created by Congress in 1895, was abolished, with the vestiges of authority, transferred to the Department of Treasury, by Reorganization Plan No. 1 of 1965 (5 USCS § 903):

Bureau of Customs

§ 1. Abolition of offices

All offices in the Bureau of Customs of the Department of the Treasury of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise to which appointments are required to be made by the President, by and with the advice and consent of the Senate, are abolished. The foregoing provisions shall become effective with respect to each office abolished thereby at such time, not later than December 31, 1966, as the Secretary of the Treasury shall specify, but nothing herein shall empower the Secretary to increase the term of any office beyond that provided by law for such office or affect his authority under the first paragraph under the heading "TREASURY DEPARTMENT" appearing in the Act of March 2, 1895 (ch. 187, 28 Stat. 844; 5 U.S.C. 252) [31 USCS § 1016], to retain in office, prior to December 31, 1966, those persons whose offices are to be terminated under this reorganization plan.

§ 2 Transfer of functions

There are transferred to the Secretary of the Treasury the functions, if any, that have been

vested by statute in officers, agencies, or employees of the Bureau of Customs of the Department of the Treasury since the effective date of Reorganization Plan No. 26 of 1950 (64 Stat. 1280) [effective July 31, 1950].

81. Delegations of authority to the Commissioner of Internal Revenue (26 USC § 7802) extend only to geographical areas subject to Congress' Article IV § 3.2 legislative jurisdiction:

Treasury Department Order No. 150-42, July 27, 1956 [21 F.R. 5852]

The Commissioner shall, to the extend of the authority vested in him, provide for the administration of United States internal revenue laws in the Panama Canal Zone, Puerto Rico and the Virgin Islands.

Treasury Department Order No. 150-01, Feb. 27, 1986 [51 F.R. 9571]

The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws in the U.S. Territories and insular possessions and other authorized areas of the world.

The United States Government Manual

82. The United States Government Manual, 1995/96 edition, page 75:

United States District Courts. The district courts are the trial courts of general Federal jurisdiction ... The jurisdiction of the district courts is set forth in title 28, chapter 85, of the United States Code and at 18 U.S.C. 3231.

83. The United States Government Manual, 1995/96 edition, page 75:

Territorial Courts Pursuant to its authority to govern the Territories (art. IV, sec. 3, clause 2 of the Constitution), Congress has established district courts in the territories of Guam and the Virgin Islands...

84. The United States Government Manual, 1995/96 edition, relating to the Assistant Secretary [of the Department of the Treasury] (Enforcement), page 460:

Enforcement The Assistant Secretary (Enforcement) supervises the following operating bureaus: U.S. Secret Service; U.S. Customs Service; Federal Law Enforcement Training Center; and Alcohol, Tobacco and Firearms...

... The U.S. Customs Service collects revenue from imports and enforces the customs laws. In addition, it interdicts contraband, including narcotics, along the land and sea borders of the United States. The Bureau of Alcohol, Tobacco and Firearms is charged with collecting excise taxes on alcoholic beverages and tobacco products; suppressing traffic in illicit distilled spirits and illegal use of explosives; and controlling the sale and registration of firearms...

85. The United States Government Manual, 1995/96 edition, relating to Bureau of Alcohol, Tobacco and Firearms, page 462:

The Bureau of Alcohol, Tobacco and Firearms was established by Treasury Department Order

No. 221, effective July 1, 1972. The order transferred the functions, powers, and duties arising under laws relating to alcohol, tobacco, firearms, and explosives from the Internal Revenue Service to the Bureau. On December 5, 1978, Treasury Department Order No. 120-1 assigned to the Bureau responsibility for enforcing chapter 114 of title 18 of the United States Code (18 U.S.C. 2341 et seq.) relating to interstate trafficking in contraband cigarettes. With passage of the Anti-Arson Act of 1982, the Bureau was given the additional responsibility of addressing commercial arson nationwide...

The Bureau is responsible for enforcing and administering firearms and explosives laws, as well as those covering the production, taxation, and distribution of alcohol and tobacco products. The Bureau's objectives are to maximize compliance with and investigate violations of these laws. To achieve these goals, the Bureau is divided into two basic functions: criminal enforcement and regulatory enforcement.

The objectives of criminal enforcement activities are to:

- suppress illegal trafficking, possession and use of firearms, destructive devices, and explosives;
- impact arson-for-profit schemes;
- suppress the traffic in illicit distilled spirits;
- suppress interstate trafficking in contraband cigarettes;
- assist Federal, State, and local law enforcement agencies in reducing crime and violence; and
- investigate narcotics traffickers who use firearms and explosives as tools of their trade, especially violent gangs.

86. The United States Government Manual, 1995/96 edition, relating to the United States Customs Service (p. 464 et seq.):

The fifth act of the first Congress, passed on July 31, 1789 (1 Stat. 29), established customs districts and authorized customs officers to collect duties on goods, wares, and merchandise imposed by the second act of the first Congress, dated July 4, 1789 (1 Stat. 24). The Bureau of Customs was established as a separate agency under the Treasury Department on March 3, 1927 (19 U.S.C. 2071) and, effective August 1, 1973, was redesignated the United States Customs Service by Treasury Department Order 165-23 on April 4, 1973.

The Customs Service collects the revenue from imports and enforces customs and related laws. Customs also administers the Tariff Act of 1930, as amended (19 U.S.C. 1654), and other customs laws. Some of the responsibilities that Customs is specifically charged with are:

- assessing and collecting customs duties, excise taxes, fees, and penalties due on imported merchandise;
- interdicting and seizing contraband, including narcotics and illegal drugs;
- processing persons, carriers, cargo, and mail into and out of the United States;

- administering certain navigation laws; and
- detecting and apprehending persons engaged in fraudulent practices designed to circumvent customs and related laws; copyright, patent, and trademark provisions; quotas; and marking requirements for imported merchandise.

Also, Customs enforces a wide range of requirements to protect the public, such as auto safety and emission control standards, radiation and radioactive material standards; counterfeit monetary instruments; flammable fabric restrictions; animal and plant quarantine requirements; and food, drug, and hazardous substance prohibitions.

Customs is extensively involved with outside commercial policy organizations and trade associations, and with international organizations and foreign customs services. Customs is a member of the multinational Customs Cooperation Council, the Cabinet Committee to Combat Terrorism, and the International Narcotics Control Program...

87. The United States Government Manual, 1995/96 edition, page 794:

Alcohol Control Administration, Federal

Established by EO 6474 of Dec. 4, 1933. Abolished Sept. 24, 1935, on induction into office of Administrator, Federal Alcohol Administration, as provided in act of Aug. 29, 1935 (49 Stat. 977). Abolished by Reorg. Plan No. III of 1940, effective June 30, 1940, and functions consolidated with activities of Internal Revenue Service.

88. United States Government Manual, 1995/96 edition, page 799, relating to the character of the Coast Guard:

Coast Guard, U.S. Transferred from Treasury Department to Navy Department by EO 8929 of Nov. 1, 1941. Returned to Treasury Department by EO 9666 of Dec. 28, 1945. Transferred to Transportation Department by act of Oct. 15, 1966 (80 Stat. 931).

89. The United States Government Manual, 1995/96 edition, relating to the Internal Revenue Service, page 820:

Internal Revenue Service Functions relating to alcohol, tobacco, firearms, and explosives transferred to Bureau of Alcohol, Tobacco and Firearms by Treasury department order July 1, 1972.

Court Decisions

90. The Separation of Powers Doctrine with respect to division between State and Federal authority, as articulated by the United States Supreme Court in New York vs. United States, et al, 505 U.S. ____ 120 L.Ed. 2d 120, 112 S.Ct. 2408 (1992): Where the several States party to the United States Constitution are concerned, the United States may exercise only those powers delegated, and officers of the several States may not accommodate exercise of a federal power not delegated without first securing a constitutional amendment (premised on Tenth Amendment & intent of Founders).

91. United States Code Service notes concerning United States admiralty [and maritime] actions: In

American Ins. Co. v. 356 Bales of Cotton (1828) 26 US 511, 7 L.Ed. 242, and Romero v. International Terminal Operating Co. (1959) 358 US 354, 3 L.Ed. 2d 368, 79 S.Ct. 468, reh den 359 US 962, 3 L.Ed. 2d 769, 79 S.Ct. 795, the United States Supreme Court determined that admiralty and maritime cases are not in the framework of the Article III § 2.1 "arising under" clause in the United States Constitution.

92. No legitimate authority resides in or emanates from an office which was not legitimately created and/or ordained either by state or national constitutions or by legislative enactment (United States vs. Germane, 99 U.S. 508 (1879); Norton vs. Shelby County, 118 U.S. 425, 441, 6 S.Ct. 1121 (1866); Pope vs. Commissioner, 138 F.2d 1006, 1009 (6th Circuit, 1943); State vs. Pinckney, 276 N.W. 2d 433, 436 (Iowa, 1979).

93. In order to establish a tax liability under provisions of the Internal Revenue Code, a taxing statute which describes the transaction, service, or object to be taxed must be in evidence (United States vs. Community TV, Inc. 327 F.2d 797, at p. 800 (1964); Hassett vs. Welch, 303 U.S. 303, 58 S.Ct. 559, 82 L.Ed. 858).

94. Jurisdiction of federal magistrate judges is concurrent with jurisdiction of the United States District Court where assigned: "Powers and duties were coextensive with limits of judicial district in which he was appointed." United States vs. Stern (1910, D.C. Pa.) 177 F. 479.

95. United States v. Community TV, Inc. 327 F.2d 797, at p. 800 (1964):

Without question, a taxing statute must describe with some certainty the transaction, service, or object to be taxed, and in the typical situation it is construed against the Government. Hassett v. Welch 303 U.S. 303, 58 S.Ct. 559, 82 L.Ed. 858

96. California Bankers Ass'n v. Schultz, 416 U.S. 21, 26, 94 S.Ct. 1494, 1500, 39 L.Ed.2d 812 (1974):

Because it has a bearing on our treatment of some of the issues raised by the parties, we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone.

97. United States of America v. Menk, 260 F.Supp. 784 (1966), at p. 787:

It is immediately apparent that this section alone does not define the offense as the defendant contends. But rather, all three of the sections referred to in the information -- Sections 4461, 4901 and 7203 -- must be considered together before a complete definition of the offense is found. Section 4461 imposes a tax on persons engaging in a certain activity; Section 4901 provides that payment of the tax shall be a condition precedent to engaging in the activity subject to the tax; and Section 7203 makes it a misdemeanor to engage in the activity without having first paid the tax, and provides the penalty. It is impossible to determine the meaning or intended effect of any one of these sections without reference to the others.

Miscellaneous Authorities

98. The Kentucky Resolutions, Resolution #2 (Thomas Jefferson, 1798): "That the Constitution of the United States, having delegated to Congress a power to punish treason, counterfeiting the securities

and current coin of the United States, piracy, and felonies committed on the high seas, and offenses against the law of nations, and no other crimes whatsoever..." [Affirmed by Article I § 8.6 of United States Constitution]

99. Principles of natural or common law indigenous to forty-nine of the fifty States party to the United States Constitution, framed by American founders in the Declaration of Independence as, "the laws of Nature and Nature's God," as historically proven in over a thousand years of English-American lineage; Oklahoma Organic Act of 1890, § 11, revised and adopted by the first session of the State of Oklahoma Legislature following admission to the Union in 1907.

100. Oklahoma Constitution, Article I § 1: "The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land."

101. The Separation of Powers Doctrine, as articulated at Article IV § 1 of the Oklahoma Constitution: "The powers of the government of the State of Oklahoma [and the United States] shall be divided into three separate departments: The Legislative, Executive, and Judicial; and except as provided in this Constitution, the Legislative, Executive, and Judicial departments of government shall be separate and distinct, and neither shall exercise the powers properly belonging to either of the others."

102. Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States: Jurisdiction Over Federal Areas Within the States, Part I, April 1956, titled, "The Facts and Committee Recommendations", Part II, June 1957, titled, "A Text of the Law of Legislative Jurisdiction". Text used in this petition is from Part II, Chapter V, Criminal Jurisdiction, page 114:

State criminal jurisdiction retained. -- State criminal jurisdiction extends into areas owned or occupied by the Federal Government, but as to which the Government has not acquired exclusive legislative jurisdiction with respect to crimes. And as to many areas owned by the Federal Government for its various purposes it has not acquired legislative jurisdiction. The Forest Service of the Department of Agriculture, for example, in accordance with a provision of Federal Law (16 U.S.C. 480), has not accepted the jurisdiction proffered by the statutes of many States; and the vast majority of Federal forest lands are held by the Federal Government in a proprietorial status only.

The Federal Government may not prosecute for ordinary crimes committed in such areas. Federal civilians who may be appointed as guards in the areas do not have police powers, but possess only the powers of arrest normally had by any citizen unless they receive appointments as State or local police officers.

103. The conclusion of definition application set out above, where "State" and "United States" are defined with examples of United States territories under Congress' exclusive legislative jurisdiction without naming any of the several States party to the Constitution is determined by two principals of law, the first being, "it is known by its associates," (the example represents the class), the second being, "the inclusion of one is the exclusion of the other." These longstanding principles are represented by two Latin legal terms, definitions from Black's Law Dictionary, 6th edition:

Noscitur a sociis. It is known from its associates. The definitions above mention only Federal territories under Congress' Article IV legislative jurisdiction, without mentioning any of the several States party to the United States Constitution, so the several States are excluded. The meaning of a word is or might be known from the accompanying words. Under the doctrine of "*noscitur a sociis*", the meaning of questionable or doubtful words or phrases in a statute may

be ascertained by reference to the meaning of other words or phrases associated with it.

Inclusio unius est exclusio alterius. The inclusion of one is the exclusion of another. The certain designation of one person is an absolute exclusion of all others ... This doctrine decrees that where law expressly describes [a] particular situation to which it shall apply, an irrefutable inference must be drawn that what is omitted or excluded was intended to be omitted or excluded.

104. The Internal Revenue Code (title 26 United States Code cites being used) makes no statutory provision for anyone other than a citizen or resident alien of the geographical United States to "elect" to participate in subtitle A, B & C federal taxes, as demonstrated by the following, unless married to someone obligated to the system: In order for a nonresident alien of the geographical United States to elect to be taxed or treated as a citizen or resident of the United States under 26 USC § 6013(g)(3), the spouse must be a citizen or resident of the United States or must be connected with a "United States trade or business" (performance of the functions of a political office, as defined at 26 USC § 7701(a)(26)); a nonresident alien is never self-employed (26 CFR § 1.1402(b)); in the event a nonresident alien of the geographical United States is an "employee" (26 USC § 3401(c)), employed by an "employer" (26 USC § 3401(d)), the employer is liable for collection and payment of income tax (26 CFR § 1.1441-1), at a flat rate which may vary according to classification. In order for real property to be treated as effectively connected with a United States trade or business by way of election, it must be located within the geographical United States (26 USC § 871(d)).

Suggested Bill of Particulars

Stipulations of basic fact: 1. John Doe (not JOHN DOE) is a Citizen of the Oklahoma republic, one of the several States party to the United States Constitution.

2. John Doe, is not a "citizen of the United States" as defined in Section 1 of the Fourteenth Amendment to the United States Constitution: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside..." John Doe was not born in a federal territory subject to Congress' Article IV § 3.2 legislative jurisdiction, and has not applied for or gone through the judicial process necessary to become a naturalized Fourteenth Amendment citizen of the United States.

3. John Doe is not an officer, agent or employee of the United States or any United States territorial or political subdivision subject to Congress' Article IV § 3.2 legislative jurisdiction.

4. John Doe does not live or have abode on a federal enclave ceded to the United States by the Oklahoma Legislature, as prescribed at Article I § 8.17 of the United States Constitution and 40 USC § 255.

5. John Doe is not a United States citizen or resident alien of a Federal territory or insular possession subject to Congress' Article IV § 3.2 legislative jurisdiction.

6. John Doe does not have abode on Indian tribal land subject to tribal governance under authority of the Bureau of Indian Affairs and the Department of the Interior.

7. At all times, Internal Revenue Service principals have alleged obligations for John Doe as being "income tax," presumably under subtitles A & C of the Internal Revenue Code [Vol. 68A, Statutes at

Large, as amended in 1986 and since].

8. At no time has John Doe been engaged in enterprise subject to Bureau of Alcohol, Tobacco and Firearms administration under subtitle E of the Internal Revenue Code or as BATF authority applies to importation of firearms, explosives, etc.

9. At no time John Doe been engaged in narcotics or other controlled substance trade, smuggling, production, or distribution, subject to Customs authority under United States treaties and other provisions of law.

10. John Doe is not a bar-licensed attorney so cannot be held to standards of an attorney.

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